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British Columbia Labour Relations Board

1999 Annual Report

BRITISH COLUMBIA

Ministry of Labour
Honourable Joy MacPhail, Minister

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LABOUR
RELATIONS
BOARD
BRITISH COLUMBIA

March 1, 2000

The Honourable Joy MacPhail
Minister of Labour
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Ms. Minister:

Re: Annual Report

I am pleased to forward the Annual Report of the Labour Relations Board for the year ended December 31, 1999. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,

LABOUR RELATIONS BOARD

Keith Oleksiuk
Chair

KO/dle
Encl.

SUITE 900 — 360 WEST GEORGIA STREET, VANCOUVER, BC V6B 6B2
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TABLE OF CONTENTS

LETTER OF TRANSMITTAL iii

CHAIR'S MESSAGE vii

ORGANIZATIONAL CHART viii

I. THE BOARD 1

A. General Overview 3

B. Office of the Chair 3

C. Registry 4

D. Adjudication Division 6

E. Mediation Division 7

F. Administration 8

G. Library 9

II. BOARD MEMBERS AND MEDIATORS 11

III. HIGHLIGHTS OF BOARD DECISIONS 37

IV. JUDICIAL REVIEW 63

V. STATISTICAL TABLES 73

APPENDIX OF LEGISLATIVE REFERENCE TABLES

A. Statutory History of the *Labour Relations Code* 100

B. Statutes Referencing the *Labour Relations Code* 102

C. Rules and Regulations under the *Labour Relations Code* 103

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Chair's Message

As 1999 drew to a close, we experienced a very significant personnel change. Brian Foley left the position of Associate Chair (Mediation) which he had occupied with such distinction since the inception of the current Board. Brian's contributions have been greatly appreciated by everyone connected with the Board and we are sure that Brian's contribution to labour relations will continue with Brian in private practice.

Irene Holden who served as a mediator before her appointment as Vice-Chair in 1997, has been appointed Acting Associate Chair (Mediation), an appointment which I am confident will be welcomed by the labour relations community.

During the year, the Board built on its longstanding commitment to be accessible to the community. The major initiative was establishment of the Board's web site (www.lrb.bc.ca). We have already received many favorable comments from the community which are assisting us in improving the site. We encourage and welcome further suggestions from individuals or organizations. The web site is very much a work in progress which will expand as we go along.

Several years ago the Board produced an Employer's Guide to the Certification Process. Thousands have been distributed. The Board has now introduced a publication entitled "Questions and Answers for Employees Regarding the Union Certification Process". We expect this publication to be popular as well. It is available on request and may be distributed by employers, unions or individuals.

As a result of the Board's determination to ensure the integrity of membership evidence, a new random audit procedure has been developed and implemented with respect to certification and decertification applications.

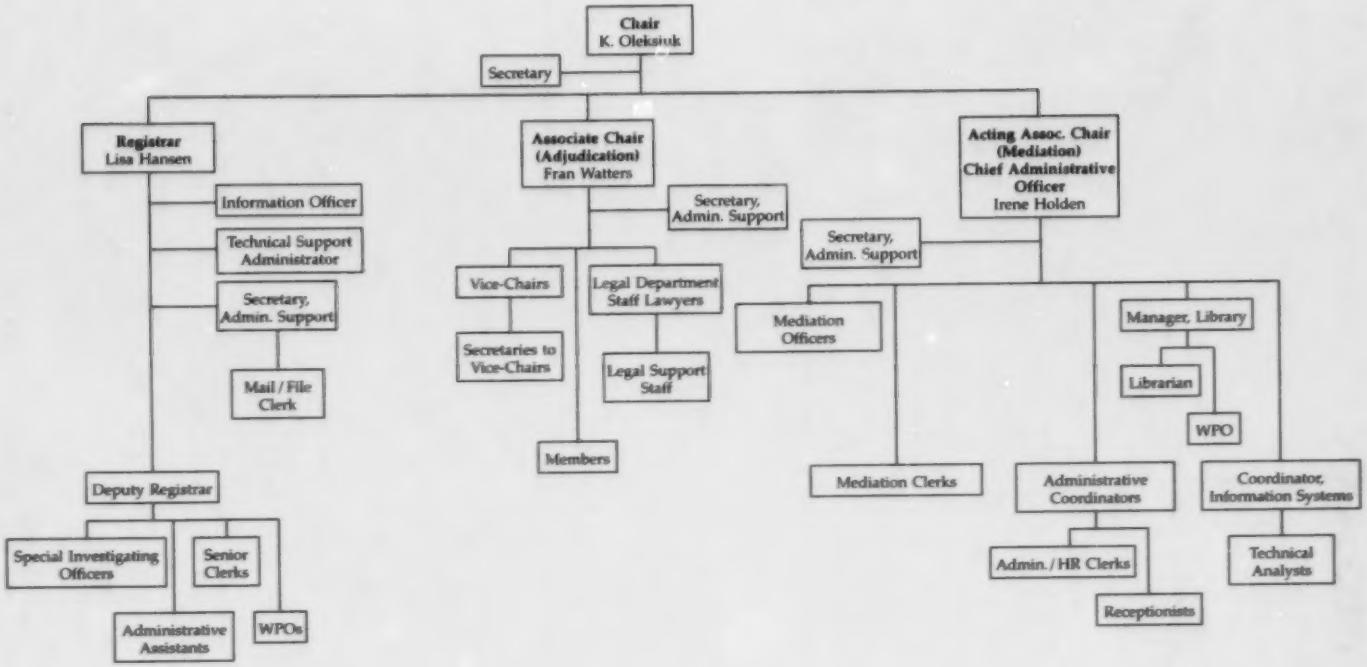
On the legal front, the Supreme Court of Canada decision with respect to the Kmart leafleting case has created a challenge for the Legislature with respect to the definition of picketing in the Code. However, this decision has set out *indicia* that provide useful guidance in drawing a distinction between leafleting and picketing.

The past year has seen the Board continue its involvement in determining bargaining unit structures in the health sector and the film industry. As a result of amendments to the Code in 1999, establishing special provisions for the Industrial, Commercial and Institutional (ICI) sector of the construction industry, the Board is now involved in establishing bargaining structures in that industry as well.

In terms of the Board's over-all performance during the year and the prospects for the year 2000, the outlook is positive. A comprehensive government audit of the Board took place during the year. While the final report has not yet been released, the preliminary reports indicated that the Board is doing well in terms of efficiency and productivity. We also understand that a review of the Board's efficiency compared with Boards in other jurisdictions stands us in good stead. However, we are still faced with troublesome levels of delay. I do not believe that this problem will disappear until the Board receives the resources necessary to allow us to increase the number of vice-chairs.

A particular challenge in the years ahead will be to find ways to buffer the Board from British Columbia's volatile political culture. The interests of stable and positive industrial relations in British Columbia are best served by keeping a healthy distance between the Board and the political arena. I hope that one step in achieving this objective will result from the work of the committee which is reviewing how the Board makes its recommendations on vice-chair appointments.

Labour Relations Board
Organizational Chart
January 2000



I.
The Board

I. The Board

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility in labour relations matters under several other statutes — see Table B in the Appendix to this Report.

In carrying out its mandate, the Board must at all times have regard to the purposes and objects of the Code. These are set out in Section 2 (1):

2. (1) The following are the purposes of this Code:

(a) to encourage the practice and procedure of collective bargaining between employers and trade unions as the freely chosen representatives of employees;

(b) to encourage co-operative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing work force skills and promoting workplace productivity;

(c) to minimize the effects of labour disputes on persons who are not involved in the dispute;

(d) to promote conditions favourable to the orderly, constructive and expeditious settlement of disputes between employers and trade unions;

(e) to ensure that the public interest is protected during labour disputes;

(f) to encourage the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115 (3) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. Section 116 of the Code requires that there be two divisions of the Board — the Mediation Division and the Adjudication Division. The Chair designates one of the Vice Chairs to act as Registrar, one to act as Associate Chair of the Mediation Division and one to act as Associate Chair of the Adjudication Division. The Chair, along with the Associate Chair (Adjudication), establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117 (4) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chairs of Mediation and Adjudication and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at all proceedings of the Board and on all panels of which the Chair is a member.

C. REGISTRY

Every application received by the Board, except those relating to mediation, is processed through the Registrar's office. Administration and progress of each non-mediation case is overseen by the Registry until the matter is finally disposed of. Four administrative assistants, each dealing with a geographic area of the Province, are responsible for initiation of applications and the conduct of files.

Processing of all non-mediation applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

The Registry processes applications on either an expedited or non-expedited basis. Legislated time frames, combined with established Board policies and procedures, result in approximately 55 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints must be adjudicated within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, administrative assistants are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies. On September 20, 1999, the Board instituted a system of random audits for certification and decertification applications. The audit is conducted by an IRO and involves a full payroll record check as well as a signature check of the union membership cards for a certification application, and in the case of a decertification application, a check of the signatures on the decertification form.

Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their case load involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

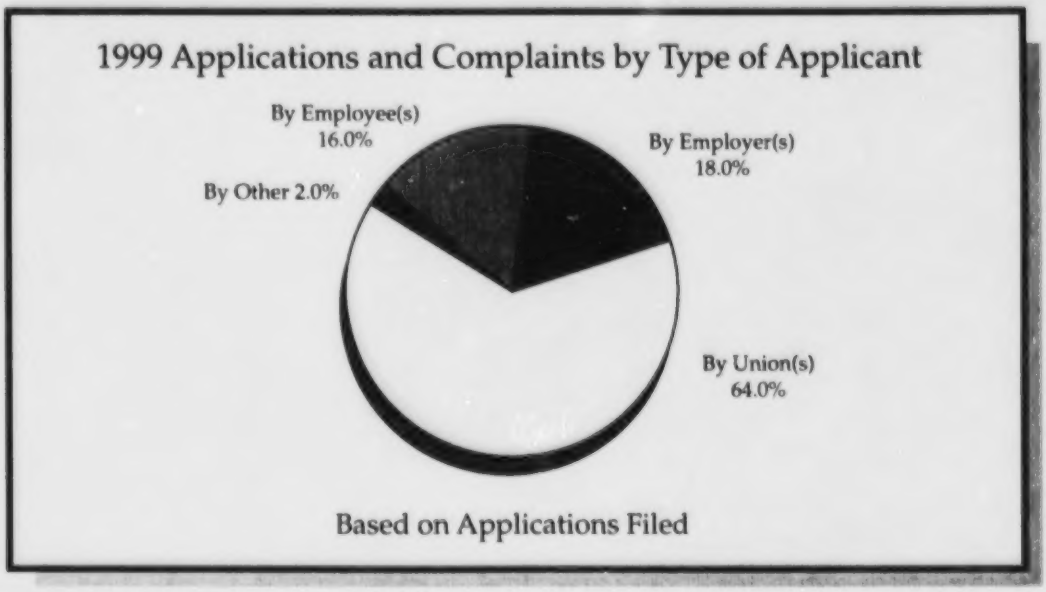
Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 11 of the statistical tables, approximately 60 percent of unfair labour practice complaints and Part 5 complaints referred to officers are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers of the Employment Standards Branch of the Ministry of Labour. For example, every application for certification or decertification requires a report by an Industrial Relations Officer. Such reports are public, with only names and numbers remaining confidential to the Board.



Both SIOs and Industrial Relations Officers (IROs) also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues. In 1998 the Board initiated a joint program with the Employment Standards Branch which brings IROs to the Board for a three month program working with the SIOs. This broadens the experience of the IROs and benefits both the community and the IRO.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

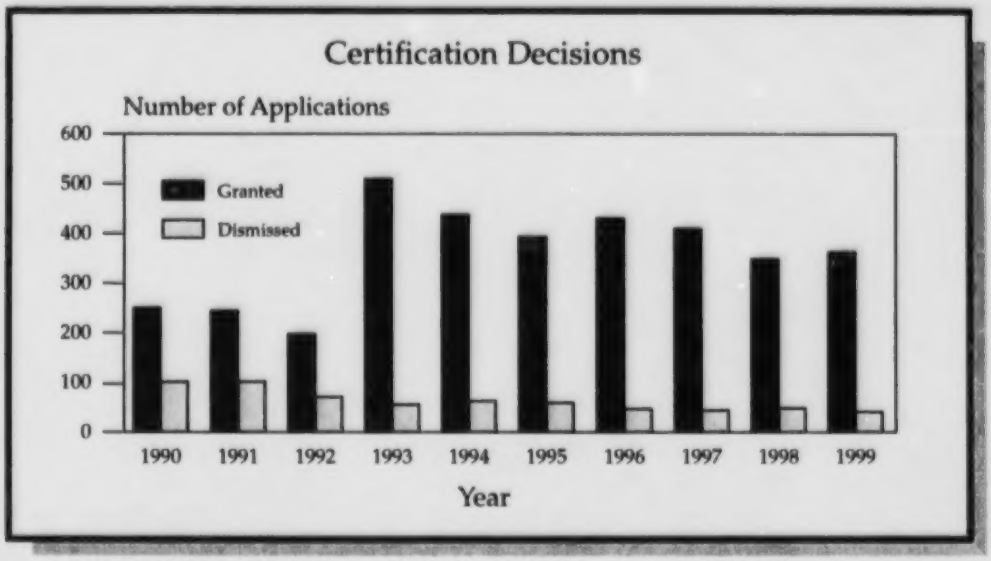
The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them. In 1999, 88 letters were sent seeking additional information before processing Section 12 Applications.

In accordance with Section 122 (3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. His responsibilities to date have encompassed two main areas: handling incoming inquiry calls, and preparing written material for the public and the labour relations community.

The Information Officer deals with approximately 40 calls per day, from employers, unions, individual employees and media representatives.

The Board's publications include a *Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The Guide is also available in French, Chinese and Punjabi translations. The day after the Notice and Guide are sent to employers, the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process*, has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.



Another publication prepared by the Information Officer, the Board's Practice Manual has now been in use since April, 1995. There were more than 600 copies in use at the end of 1999.

The Board's web site was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The web site address is www.lrb.bc.ca.

D. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the *Labour Relations Code*. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker provision; and applications for reconsideration of Board decisions.

A major portion of the Division's workload continues to be the adjudication of expedited applications (including certifications, unfair labour practice complaints and Part 5 applications). During 1999, expedited applications comprised about 64.8% of cases received in the Board's major adjudication areas.

Since proclamation of the current Code in 1993 there has only been a slight decrease in the number of applications received by the Board. A comparison for recent calendar years of cases assigned for adjudication and adjudicated is set out in the accompanying table. The increase in 1999, combined with reduced resources, has unfortunately continued to result in a backlog — as evidenced by the number of cases outstanding at year end.

There has also been an increase since 1993 in the number of decisions published by the Adjudication Division. During each of the calendar years 1990 to 1992, the Industrial Relations Council issued between 240 and 250 formal decisions. Since 1993, the Board has published an average of 479 decisions each year. The total in 1999 was 524 decisions (summaries of key cases are found elsewhere in this Report).

The Board continued to feel the effects of Government restraint in 1999. At the end of the year, there were 10 full-time, and two part time vice-chairs. One vice-chair assumed the position of Acting Associate Chair (Mediation) at the

	1993	1994	1995	1996	1997	1998	1999
Applications Assigned for Adjudication	1687	1660	1561	1498	1545	1584	1603
Applications Adjudicated	1667	1612	1624	1414	1569	1562	1628
Applications Outstanding at Year End	267	315	235	306	369	435	410

beginning of December and has not yet been replaced. There were also 44 part-time members, representing either employers or employees, for assignment to hearing panels.

Legal services to the Adjudication Division are provided by a staff of four full-time lawyers and one part-time lawyer. One of the full-time lawyers serves in a coordinating role. The lawyers provide a wide range of support to the Board, including legal research, attending hearings, maintaining precedents and other resources, and representing the Board's interests in judicial review proceedings before the courts.

E. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. These and other services are provided under the direction of the Associate Chair (Mediation).

Information about the services available from the Mediation Division can be obtained by telephone at (604) 660-9656 or via the Board's website (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the *Labour Relations Code* administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in efforts to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55. In 1999, mediators were appointed to 181 cases under Section 74 and 25 cases under Section 55. Mediators were also involved in a further 70 cases which were carried over from 1998.

Essential Services (Section 72)

The mediation of essential services in certain public sector disputes is part of the mandate of the Mediation Division. In 1999, mediators were involved in mediating the establishment of essential service levels in disputes involving universities, the community subsector of health care, BCIT, and a number of other areas.

Labour Management Consultation Committees (Section 53)

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. The Mediation Division offers assistance to employers and unions in meeting this obligation by providing advice on how to establish such committees and how to improve the effectiveness of existing committees.

First Collective Agreement Orientation

An employer or union involved in a first certification may request that a mediator be appointed to provide familiarization with the parties' rights and responsibilities with respect to concluding first collective agreements. The sessions generally take a few hours and are intended to provide an overview of what to expect in the collective bargaining process.

Relationship by Objectives Program

The Relationship by Objectives (RBO) program is designed to assist employers and unions who are mutually committed to improving the effectiveness of their ongoing relationship. The objective of the program is to create and foster a more positive climate at the workplace.

At the joint written request of an employer and a union, a mediator will be appointed to meet with the parties to confirm that they are committed to improving their relationship and that the RBO is the appropriate vehicle to utilize. During the course of exploratory meetings, the mediator may determine that an RBO is not appropriate and may suggest other means for the parties to address their relationship difficulties.

The formal RBO process generally involves a two-day working session away from the workplace involving key employer and union representatives. Through the use of open and candid discussion groups, the parties identify the problems affecting their relationship and develop concrete plans to achieve improvement.

The objective of the RBO seminar/workshop is for the parties to mutually agree upon a set of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals responsible for ensuring that the action plans are carried out.

A follow up session to review progress is usually scheduled between three to six months after the initial session. At this follow up session, the mediators offer assistance to the parties to revise and update the action plans.

Grievance Mediation

Mediators often provide assistance to employers and unions to resolve grievances or other problems related to the operation of their collective agreement. Because of cost considerations, this assistance is generally only offered at the Board offices in Vancouver. A joint written request can be submitted to the Associate Chair (Mediation) to obtain grievance mediation assistance.

Collective Bargaining Information System

The Mediation Division gathers and publishes information on collective bargaining and related labour relations matters. The Collective Bargaining Information System utilizes a costing model which measures total compensation, including the costs of both wage and benefit improvements. End rate costing is used to measure the level of the compensation changes at the end of each contract year.

The data contained in the Collective Bargaining Information System is available to interested parties on-line on a fee for service basis. Users can conduct customized searches of the data based on an industry sector, work performed, geographic location and length of the collective agreement. Interested parties may contact the Mediation Division for more information on the system and free demonstrations.

The Division also publishes the "Collective Bargaining Information Monthly Summary". This publication is available on a subscription basis and contains information on settlements and annual settlement trends on a private/public sector and industrial sector basis. The publication also contains labour market information compiled by Statistics Canada, lists of new certifications and variances granted by the Labour Relations Board, and a list of arbitration awards received by the Collective Agreement Arbitration Bureau.

F. ADMINISTRATION

Information Systems

The Board has a HP9000 computer running a HP-UX operating system. The in-house applications running on the computer are written in

PowerHouse and the information/data collected is stored in an Interbase database. The Board is also running Microsoft Windows NT Server 4.0 as a file and print server.

The principal computer applications contained on the in-house computers run in the ollowing areas: case management, word processing, office automation and end user computing, statistical collection and distribution, library management and computer aided research.

Human Resources and Administration

The Human Resources and Administration group is responsible for handling personnel matters including payroll and benefit administration. The department also manages financial affairs (accounts payable/accounts receivable) in accordance with Government policy and oversees maintenance of the Board's offices, including telephones, office equipment and security.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, secretaries, and administrative support personnel.

G. LIBRARY

The Labour Relations Board library is dedicated to serving the labour relations community in B.C. This modern facility houses an up-to-date specialized collection in labour and employment law and is geared to provide assistance to the legal and labour relations communities and the public. As well, computers provide access to on-line catalogues and LRB databases.

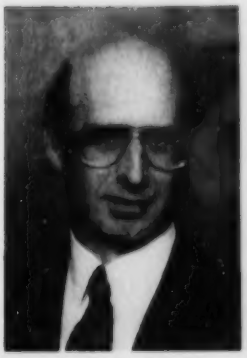
The library is the sole depository for B.C. collective agreements which employers and unions are required to file with the Board. This collection totals 6,300 agreements. The library maintains printed lists of the agreements on file: one by union and one by employer. Patrons may phone the library to inquire about the availability of a collective agreement. In addition, patrons may visit the library to research the printed lists, and to make copies of the agreements themselves. Patrons outside the Lower Mainland may request photocopies of the agreements be mailed to them for a service charge.

During the period from January to December 1999 the usage of the library was 15 percent by in-house personnel and 85 percent by the public. In addition to day-to-day services (in person or by phone), library staff provide orientation tours for individuals and groups. In the period from January to December 1999, library staff handled approximately 4,700 information queries and welcomed 4,000 patrons.

II.
Board Members and Mediators

II. Board Members and Mediators

As of December 31, 1998, the Board consisted of the following members:



KEITH OLEKSIUK, *Chair*

Keith Oleksiuk obtained a B.A. from York University in 1971. He worked at York University until 1976, followed by employment with the Labour Council of Metropolitan Toronto. He then obtained an LL.B. in 1983 from Osgoode Hall Law School. Beginning in 1983, he was with the legal department in the Canadian National Office of the United Steelworkers of America, in Toronto. He appeared before tribunals in various jurisdictions in Canada including Courts, Labour Relations Boards and arbitrators. From 1990 until his appointment as a Vice Chair in 1992, Mr. Oleksiuk was based in Vancouver providing services to the Steelworkers for Western Canada and the Territories. He was appointed as Chair of the Board in November 1996.

FRANCES R. WATTERS, *Associate Chair (Adjudication)*

Fran Watters obtained her Bachelor of Laws degree from the University of Victoria in 1983. She then clerked with the British Columbia Supreme Court for one year before she was hired by the Labour Relations Board as a staff lawyer. In 1988 she joined the Vancouver firm of Alexander, Holburn, Beaudin & Lang where she became a partner in 1992. While at Alexander, Holburn, Beaudin & Lang, Ms. Watters' professional practice focused on labour, employment and human rights law. Ms. Watters was appointed to her current post in July of 1998.

BRIAN FOLEY, *Associate Chair (Mediation)*

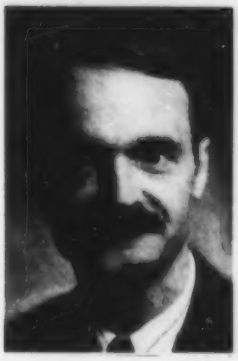
Brian Foley was a Vice Chair and Registrar at the Labour Relations Board from 1981 to 1984. He served as vice-president of Human Resources, Engineering & Telecommunications for B.C. Rail from 1984 to 1992. Mr. Foley's previous experience includes over ten years as a full-time union representative with the Public Service Alliance of Canada, and five years as Executive Director of the Public Employers of B.C. He is a graduate of St. Patrick's College and Carleton University in Ottawa. Mr. Foley was appointed Associate Chair (Mediation) in 1992 and was reappointed in 1997. He resigned at the end of November, 1999 to enter private practice. Vice-Chair Irene Holden was appointed acting Associate Chair (Mediation) in December 1999.

LISA HANSEN, *Registrar*

Lisa Hansen was appointed Registrar effective April 7, 1997. At the time of her appointment she was Executive Co-Director of the Health Sciences Association of B.C. HSA represents over 10,000 health care professionals in British Columbia. Prior to becoming Executive Co-Director in 1993, Ms. Hansen was Assistant Executive Director one year and Senior Labour Relations Officer for 12 years. She became active in HSA while working as a Registered Medical Laboratory Technologist. Ms. Hansen was a part-time Board Member from 1994 until her appointment as Registrar.

HANS BROWN, *Vice Chair*

Hans Brown attended Carleton University in Ottawa and the University of Calgary. He is a graduate of the University of Calgary. Mr. Brown served as a representative for the B.C. Government Employees' Union and as a representative and Director of the Hospital Employees' Union for 14 years.



MARK J. BROWN, *Vice Chair*

Mark Brown was appointed to the Board as Vice Chair commencing February 1, 1996. Mark graduated from Ryerson in Toronto in 1977 with a Bachelor of Business Management Degree. He joined the Canadian Red Cross as an Administrator of one of its centers in Toronto. In 1981 he joined Versa Services Ltd. as its Industrial Relations Manager responsible for collective bargaining and labour relations for Canada. From 1985 to 1995 he was employed by the Health Employers Association of B.C., and one of its predecessor associations. As the Director of Consulting Services, he was responsible for collective bargaining, third party hearings and resource management for the community care sector. In 1995 he briefly held a similar position for the Community Social Services Employers' Association before joining the Board.

EMILY BURKE, *Vice Chair*

Emily Burke received her LL.B. in 1981 from Dalhousie Law School. Prior to her appointment as Vice Chair in 1990, Ms. Burke practiced labour law with the firm of Alexander, Holburn, Beaudin and Lang. Her practice primarily involved work for employers in various sectors including forestry, health care, construction, municipalities and manufacturing. Ms. Burke articled and practised with Lawson Lundell, Lawson & McIntosh before joining the former Labour Relations Board as a staff lawyer in 1984. She served as a staff lawyer in 1986, during which time she co-ordinated and edited the Canadian Labour Relations Board Reports. Ms. Burke has been a lecturer and author on labour relations, contributing regularly to publications for the Continuing Legal Education Society of B.C. In addition, she has been part of the curriculum development team and taught the "Foundations of Administrative Justice" Course developed by the British Columbia Council of Administrative Tribunals both in B.C. and in the Yukon Territories. She has also participated in the adaptation of the Course for others including the Benchers of the Law Society in February and March of 1998. In 1997, she was the Co-Chair of the second annual BCCAT Education Conference "Reshaping Administrative Justice". Ms. Burke is Chair of the Policy and Research Committee and in 1998 became the vice-president of the British Columbia Council of Administrative Tribunals. She completed her term as Vice-Chair in 1999.

MICHAEL FLEMING, *Vice Chair*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received a LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members.

JOHN B. HALL, *Vice Chair*

John Hall obtained his Bachelor of Laws degree from the University of British Columbia in 1980. He then articled and became an associate with the Vancouver law firm of Alexander, Holburn, Beaudin & Lang where his professional practice was restricted to labour and employment law. Mr. Hall served as a Vice Chair of the Labour Relations Board from 1985 to 1987. He returned to his former firm where he became a partner in 1988. Mr. Hall continued his labour and employment law practice, with an increasing portion of his work being appointments as a neutral in unjust dismissal adjudications and labour arbitrations. He was appointed to the Board as Associate Chair (Adjudication) in 1992 and resigned effective May 31, 1998. He was re-appointed as a part-time Vice Chair for a one-year term, commencing December 14, 1998 and re-appointed to a further one-year term.

M. A. (Tony) HICKLING, *Vice Chair*

Tony Hickling taught labour law at the University of British Columbia from 1966 to 1969, and at the University of Western Ontario from 1969 to 1974 and at the University of British Columbia again from 1974 to 1999. In addition to his LL.B and Ph.D. degrees, he received a LL.D. from the University of London in 1976. He has been very active as an arbitrator, as well as editing *Western Labour Arbitration Cases* and organizing arbitration seminars sponsored by the Continuing Legal Education Society. In addition to many article on arbitration and labour law, he is author of "Citrine's Trade Union Law", 3rd edition, 1967 and "Labour Disputes and Unemployment Insurance Benefits in Canada and England", CCH Canadian, 1975. Tony advises that contrary to popular mythology, he has issued only one arbitration award 100 pages in length. He was appointed Vice Chair in September, 1999.

IRENE HOLDEN, *Vice Chair*

Irene Holden was appointed Vice Chair, effective February 1997, after serving as a Mediator for the Board for five years. Ms. Holden is a graduate of Acadia University. She joined the Board after 15 years at B.C. Hydro where she was Senior Labour Relations Officer, negotiating collective agreements, resolving grievances and acting for the corporation at arbitrations. In December 1999 Ms. Holden was appointed Acting Associate Chair (Mediation).

PAUL JOHNSTON, *Vice Chair*

Paul Johnston is a journeyperson carpenter by trade and was appointed as a Vice Chair in 1996 after eight years as a full-time union official. During this period he acted as a staff representative for the College Institute Educators' Association, Legal and Defence Co-ordinator for the B.C. Provincial Council of Carpenters and Business Agent for the Northwest District Council of Carpenters. Prior to his time as a union official, Mr. Johnston worked chiefly in construction on B.C.'s north coast with stints as an instructor at Northwest Community College, and organizer and researcher on a project for the Canadian Association of Smelter and Allied Workers in Kitimat. Mr. Johnston has published several articles, papers and studies including *Frontier Labour*, a history of organized labour in north-western B.C. He has a B.A. in history from Glendon College, York University.

BARBARA JUNKER, *Vice Chair*

Barbara Junker graduated from the University of British Columbia in 1977 with a Bachelor of Commerce Degree. After graduation she worked at Vancouver Hospital and subsequently at Shaughnessy Hospital. In 1983, she joined the accredited bargaining agent for health care employers and was involved in consulting and managing health labour relations in B.C. Before her appointment to the Board, Ms. Junker was responsible for advising on and implementing plans to address strategic issues in health care, as well as planning and research on health labour relations and collective bargaining issues. Ms. Junker was appointed as a Vice Chair in 1994.

SHARON KEARNEY, *Vice Chair*

Sharon Kearney is a graduate of the University of British Columbia where she received a B.A. (Honours) in 1981 and an LL.B. in 1986. She articled in British Columbia and was called to the B.C. Bar in 1987. She practiced management side labour law with the firm of MacDonald Shier from 1987 to 1989. She then joined the Labour Relations Branch of the British Columbia Provincial Government, where she represented the interests of the Government as employer in grievance arbitrations, Labour Relations Board matters and collective bargaining. In 1993 Ms. Kearney joined Ladner Downs where she practised labour and administrative law representing employers in a wide range of matters. She has been a regular lecturer with the Human Resources Managers Association and has contributed articles for publication with the Continuing Legal Education Society of British Columbia. Ms. Kearney was appointed as a Vice Chair on December 14, 1998.

LAURA PARKINSON, *Vice Chair*

Laura Parkinson received her LL.B. from the University of British Columbia in 1983 and her LL.M. in Labour Law and Constitutional Law from Queen's University in 1986. Ms. Parkinson served as a Staff Lawyer with the Labour Relations Board in 1986 and 1987. She then returned to the law firm of Baigent, Jackson, Blair where she had previously practised, and remained with that firm and its successor, Victory Square Law Office, until her appointment as a Vice Chair on August 1, 1995.

ROBERT PEKELES, *Vice Chair*

Robert Pekeles obtained his LL.B. from the University of Toronto in 1983. After articling with the law firm Swinton & Company he was called to the Bar in 1984. He served as a staff lawyer with the Labour Relations Board from 1984 to early 1986. Subsequently, he practised labour law with Rankin & Company where he acted for trade unions in various sectors including construction, mining, trucking, office and municipal. From 1989 until his appointment to the Labour Relations Board as a Vice Chair in 1994, he was legal counsel for the International Union of Operating Engineers, Local 115.

VLADIMIR (WALTER) PYLYPCHUK, *Vice Chair*

Walter Pylypchuk received his law degree from the University of Western Ontario and was called to the Bar of Ontario in 1978 and the Bar of British Columbia in 1991. He was in private practice from 1978-80, and then joined the Federal Department of Justice for two years during which time he was seconded to Canada Post Corporation. From 1983 to 1989 Mr. Pylypchuk practised as in-house counsel for Canada Post. He served as a Vice Chair of the Industrial Relations Council from 1989 to 1992. After his term with the Council he joined Swinton and Company where he represented employers, associations and trade unions, until his appointment as a Vice Chair of the Labour Relations Board on August 1, 1995.

GORD VAN DYCK, *Vice Chair*

Gord Van Dyck was appointed to the Board as Vice Chair on January 1, 1998. Mr. Van Dyck's background is comprised of almost equal measures of public sector, private sector, union and management experience. He was the Director of Labour Relations for the Workers' Compensation Board of B.C. from 1993 to 1998 and the Assistant Business Manager with Local 213 of the International Brotherhood of Electrical Workers responsible for adjudicative services from 1980 to 1993. His earlier experience includes seven years as the General Manager of Bowmac Transport Ltd., a 1992 appointment to the Labour Relations Board and four years as a part-time Commissioner with the Public Service Commission of B.C.

CARMELA ALLEVATO, *Employee Representative*

Carmela Allevato is in-house counsel for the Canadian Union of Public Employees. She served as Chief Administrative Officer of the Hospital Employees' Union for six years. She has extensive experience in advocacy and negotiations.

JOANNE ARNOLD, *Employer Representative*

Joanne Arnold has worked in the human resource/labour relations field for over 20 years, with the majority of those years being spent in the health care industry. Prior to assuming her current position of Senior Vice President with the Health Employers Association of British Columbia, Ms. Arnold worked as the Executive Director of the Continuing Care Employee Relations Association, and held several positions in the human resources field in both the manufacturing and retail industries. Ms. Arnold is also an employer representative on the Board of the Healthcare Labour Adjustment Agency, an organization focused at reducing the impact of down-sizing in health care through the co-operative efforts of both employers and unions.

KEITH BENNETT, *Employer Representative*

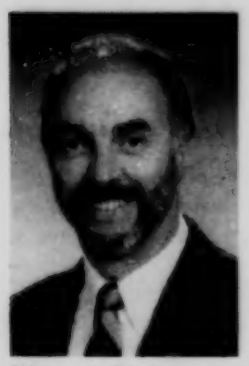
Keith Bennett is a graduate of the University of British Columbia. He joined Forest Industrial Relations Limited in 1960 as labour relations assistant and statistician and became assistant manager in March 1969. In 1971 he was appointed manager, then became vice-president in August of 1973, and president in May of 1976, until his retirement in 1997. He was the chief spokesman for the B.C. Coast forest industry in negotiations with IWA Canada. Mr. Bennett is a past chairman of the Labour-Management Committee of the Vancouver Board of Trade, a past member of the Employer-Employee Relations Committee of the Canadian Chamber of Commerce, a past director and former president of the Medical Services Association of B.C. He was a member of the Executive Committee of the Conference Board of Canada, Industrial Relations Section.

PAULA BODDIE, *Employer Representative*

Paula Boddie has worked in the human resources/labour relations field for over 15 years. She has held senior management positions in the federal and provincial sectors, most recently as Vice President of Human Resources at B.C. Transit. Ms. Boddie held a similar position at the Vancouver Port Corporation and at the Vancouver Stock Exchange. Ms. Boddie has extensive experience in labour relations, human resources, and with employment equity and human rights matters and legislation. Currently, Ms. Boddie is a practising consultant in the broad human resources field.

NEIL BRADBURY, *Employee Representative*

Neil Bradbury is a National Representative for the Canadian Union of Public Employees. Mr. Bradbury has been a member of the Board of Directors of the Medical Services Association since 1985, serving as Vice Chairman since 1989 as well as Chairman in 1993 and 1994. He is a past member of the Workers' Compensation Boards of Review and has held positions on the executives of CUPE Local 498, CUPE's Fraser Valley District Council, and the CUPE B.C. Executive Board. He has instructed courses for the Canadian Labour Congress, the B.C. Federation of Labour and CUPE's six-level program. He regularly represents employees and locals before tribunals.



VERN CARTER, *Employer Representative*

Vern Carter is President of Interior Forest Labour Relations Association. He is responsible for the Association's overall operations, and acts as chief spokesperson in contract negotiations between Southern Interior forest companies and IWA-Canada. Prior to this role, he was Manager of Labour Relations Services for the Health Labour Relations Association of B.C. He has over 20 years human resources experience in the private and public sectors with extensive experience in labour relations, collective bargaining, mediation and arbitration.

RAJ CHOUHAN, *Employee Representative*

Raj Chouhan has many years of diversified experience in labour relations and administration. Since 1986 Mr. Chouhan has been working with the Hospital Employees' Union. He is currently Director of Organizing and Bargaining. He has held various positions including advisor to the Workers' Compensation Board Sub-Committee which was set up to draft health and safety regulations for the agricultural industry, founding member of the B.C. Organization to Fight Racism, and President of the Canadian Farmworkers' Union.

JAYNIE CLARK, *Employee Representative*

Jaynie Clark is the Co-ordinator of the Advocacy Department of the B.C. Government and Service Employees' Union. Her department is responsible for research, preparation and presentation of arbitration hearings, Labour Relations Board hearings and Court matters. She has been with the BCGEU since 1989 and has worked in the North Peace, Lower Mainland and North Island area offices where she has gained broad experience in grievance handling and negotiations. Prior to joining BCGEU Ms. Clark worked with the B.C. Federation of Labour in the research department and as the Director of Education and Women's Programs. She is a certified legal assistant and was previously a member of the Labour Relations Board from 1992 to 1994.

DAVID COX, *Employer Representative*

David Cox has worked in the field of employee/labour relations in both the private and public sectors over the past 20 years. He held a number of senior positions which have included responsibility for general human resources, strategic planning, safety and labour relations. In the early 1990's he was Director, Corporate Labour Relations and Safety with B.C. Rail Ltd., and was responsible for all corporate labour relations and occupational health and safety initiatives. He is now a private labour relations consultant.

ROGER CROWTHER, *Employee Representative*

Roger Crowther has over 30 years of diversified experience as a Union Representative in British Columbia, 23 years as a full-time representative. He is currently National Representative for the Canadian Auto Workers' Union specializing in first collective agreements. He is a former Regional Vice-president of CAIMAW. Mr. Crowther is First Vice-president of the Vancouver and District Labour Council and Co-Chairs its Labour and Environmental Committee.

KAREN DEAN, *Employee Representative*

Karen Dean is Co-ordinator of Servicing for the Hospital Employees Union. She has been a full-time representative for the union since 1987 and, prior to assuming her current position, was Director of Education and Health and Safety. Previously Ms. Dean worked as an organizer for student and tenants rights groups, as a paralegal for the Canadian Farmworkers Union, and as a clerical worker for various unions.

MARIE DECAIRE, *Employee Representative*

Marie Decaire is the Secretary-Treasurer of the Hotel, Restaurant & Culinary Employees and Bartenders Union Local 40, where she has been a member for 20 years and a full-time representative since 1982. Ms. Decaire is an officer of the B.C. Federation of Labour Executive Council and also serves as a Trustee on various health care and pension funds. Ms. Decaire's experience includes grievance arbitration, trade union education and training and contract negotiation.

RALPH ELKE, *Employer Representative*

Ralph Elke is President of R. Elke & Associates and has been involved in labour relations for the past thirty years. Prior to creating his own company, he held senior human resources positions in the mining, transportation and service industries including being responsible for employee relations at Expo 86. He has negotiated over 150 collective agreements in a variety of sectors and has particular expertise regarding the bargaining process as well as in the areas of dispute resolution and collective agreement administration.

ERICH EWERT, *Employee Representative*

Erich Ewert has a long history in industrial relations. He was the financial secretary of IWA Canada, Local 1-217 from 1980 to 1998. Prior to this, he was the first Vice-President of the Local Union from 1970 to 1980. Erich has served on both the Regional Council Executive Board and the National Executive Board of IWA Canada, as well as sitting on the Provincial Negotiating Committee. Other activities that Erich has been involved in are: Trustee of the IWA Forest Industry Long Term Disability Plan, Chair of the Lower Mainland Referral and Assessment Service, Director of the Vancouver Children's Foundation, and an advocate in presenting arbitration cases and workers compensation appeals.

CAROL GIBSON, *Employer Representative*

Carol Gibson has worked in the field of employee and labour relations, in both the public and private sectors, with the Hudson's Bay Company, the Open Learning Agency and, for the last eight years, as Vice President, Human Resources, with Rogers Cablesystems Limited. She holds a B.A. and M.A. in History from the University of British Columbia.

LYNN HANCOCK, *Employee Representative*

Lynn Hancock has worked in the hospitality industry for over 25 years. She has held the position of Vice President of the Hotel, Restaurant and Culinary Employees and Bartenders Union, Local 40 for the past nine years. For the past 16 years, Ms. Hancock, as well as her Vice President duties, has worked as a business representative for Local 40. She sat for two years on the Provincial Apprenticeship Board and has been associated with the Victoria Labour Council and the B.C. and Yukon Territory Building and Construction Trades Council for many years. Ms. Hancock also sits on three Family Advisory Boards for the Elderly.

SHERIDA HARRIS, *Employer Representative*

Sherida Harris has been involved in labour relations activities for more than 20 years in both the private sector (Canadian Airlines) and the public sector (B.C. Public School Employers' Association). She has had experience in all facets of collective agreement administration and participated in collective bargaining, policy development and labour relations training. She has been active in dispute resolution on both ends of the spectrum — presenting arbitration cases and managing and facilitating a joint training program of union and management officials in conflict resolution.

GEOFFREY HOWES, *Employer Representative*

Geoffrey Howes has 35 years of experience in the restaurant and hospitality industry. He has worked in virtually all aspects of the industry, from waiter to chef to owner. As Director of Operations for Toseki Entertainment Ltd. he is responsible for the day-to-day operation of three fine dining restaurants — Salmon House on the Hill, Aqua Riva and Horizons. He also has considerable experience in labour policy issues, as an executive member of the Coalition of B.C. Businesses and as the Vice-President of Government Affairs for the B.C. Restaurant & Food Services Association.

RONALD S. JACKSON, *Employee Representative*

Ron Jackson retired February 28, 1998 from District 250 of the International Association of Machinists and Aerospace Workers. A journeyman machinist by trade, at the time of his retirement, he had served for ten years as Directing Business Representative. In addition to leading his union during this period, Ron was a Vice-President of the B.C. and Yukon Territory Building and Construction Trades Council for ten years, served on the Executive Council of the B.C. Federation of Labour and was a Trustee on various union committees, pension, health and welfare and apprenticeship. He was a member of the B.C. Labour Force Development Board.

ERIC JANES, *Employer Representative*

Eric Janes has extensive experience in all aspects of labour relations over the last 20 years and has been the Manager, Labour Relations, at B. C. Hydro from 1987 to 1997. He is currently the Manager of Call Centre Operations in Customer Services for B. C. Hydro. He is also an employer representative on the Joint Advisory Committee to the Collective Agreement Arbitration Bureau, pursuant to Section 83 of the Code.

D. KEVIN KELLY, *Employee Representative*

Kevin Kelly is past President of Kamloops Local 1-417 of the Industrial Wood and Allied Workers Canada. Prior to his election as President in 1983, he was the Financial Secretary for 14 years. Before being elected to a full time position in 1969, he worked in logging, sawmill, plywood and the auto repair business. He is also a Trustee of several forest industry and union benefit plans.

MARK LEFFLER, *Employer Representative*

Mark Leffler is Manager, Human Resources and Labour Relations for the Greater Vancouver Regional District. In that capacity he is responsible for collective bargaining on behalf of 16 municipalities and the Regional District in a voluntary bargaining association. His department negotiates some 60 collective agreements covering more than 13,000 employees, including inside/outside employees, police, firefighters, nurses, museum and public library staff. The department also provides job evaluation, workers' compensation and employment equity services throughout the Region. Mr. Leffler is a graduate of the University of British Columbia and, prior to joining the GVRD in early 1986, held a variety of labour relations and human resource management positions with Ontario Hydro, Liquid Carbonic Canada Ltd. and B.C. Hydro.

R. A. S. (BOB) MARCH, *Employer Representative*

Bob March has been in the personnel labour relations field for over 27 years with Commonwealth Construction. Mr. March's career with Commonwealth began as a Personnel Assistant, through Corporate Safety Officer to Manager of Industrial Relations. He is currently the General Manager of Highways Constructors Ltd. Mr. March is an active participant in the labour relations field. He represents the contractors on numerous boards and committees dealing with a wide variety of issues from labour disputes through to joint apprenticeship training committee functions.

GAIL MARTIN, *Employee Representative*

Gail Martin has worked for B.C. Telephone since 1967. For most of that time she has been involved with the Telecommunications Workers' Union as a Local Executive member. She has served on several joint committees with company representatives including contracting out and technological change, work jurisdiction and job sharing. Since 1995 she has worked full-time for the TWU. She is also active in her community. In 1990 she was a candidate for Councillor in Delta, currently serves on the Delta Police Board, and is an executive member of the Canadian Association of Police Boards. She is married with two adult children.

RON McEACHERN, *Employer Representative*

Ron McEachern is Deputy Commissioner of the Public Service Employee Relations Commission. In this capacity he is responsible for negotiating and administering collective agreements on behalf of the Provincial Government. His branch negotiates numerous master and component collective agreements covering more than 37,000 employees as well as various professional fee for service contracts. Currently he is a member of the Board of Directors for the Health Employers Association of British Columbia. He has been with the Provincial Government since 1975 and has held various labour relations positions including both Manager and Director of Labour Relations for the Commission. Mr. McEachern is a graduate of the University of Victoria and, prior to joining the public service, was employed in industrial relations with MacMillan Bloedel Ltd.

HILARIE McMURRAY, *Employee Representative*

Hilarie McMurray is counsel and Director, Environment, Resource Management and Treaty Negotiations for the B.C. Federation of Labour. She graduated from Osgoode Hall Law School in 1981 and has a Bachelor of Science degree from the University of Toronto. From 1983 to 1989, she was a senior policy advisor and chief speechwriter for former federal New Democratic Party (NDP) leader Edward Broadbent. From 1991 to 1993 she was Justice Policy Advisor to former Ontario Premier Bob Rae. Hilarie is a member of the B.C. and Ontario bars; she completed her articles with the Toronto labour law firm of Cavalluzzo, Hayes, Shilton, McIntyre and Cornish. From 1993 until her appointment to the staff of the B.C. Federation of Labour in 1998, she worked as a negotiator and lawyer in Victoria.

DONALD MONK, *Employer Representative*

Don Monk is a graduate of the University of British Columbia. He has been Vice-President of Labour Relations for Canada Safeway Limited for the past 17 years. Recently he has stepped down as Vice-President and is now on special assignment reporting to the Executive Vice-President of Labour Relations in California, and the President of Canada Safeway Limited.

JAN O'BRIEN, *Employee Representative*

Jan O'Brien is a 20-year veteran of the trade union movement. She is currently co-ordinator of the Capilano College Labour Studies Program and a member of the College Institute Educators' Association. She is past President of Local 115-M of the Communications, Energy and Paperworkers Union of Canada. She was a Vice President of the B.C. Federation of Labour, where she chaired the Women's Rights Committee. Jan has headed several sets of collective bargaining and led organizing drives. She is a former journalist.

MIRIAM OLNEY, *Employee Representative*

Miriam Olney is a graduate of U.B.C. and has recently retired from a 35-year career in the labour movement. Her last position was Director of Pensions & Benefits for the United Food and Commercial Workers Union. She also served 14 years as a member of the Executive Council of the B.C. Federation of Labour. Miriam sits on the Boards of the Insurance Corporation of B.C., the National Institute of Disability Management & Research, and the North Shore Crisis Services Society.

JOHN THOMAS ORR, *Employer Representative*

Tom worked in the field of employee/labour relations with Cominco Ltd. for 25 years before retiring, effective January 2000. During his career with Cominco, he has held a number of senior positions retiring as Supervisor, Employee Relations at Cominco's Sullivan Mine operation. He has extensive experience in collective agreement administration, arbitration presentation, collective bargaining, organizational restructuring and pay and benefits administration. For the past four years he has worked closely with three United Steelworkers of America locals on employee transition activities in preparation for closure of the Sullivan Mine operation in year 2002.

WAYNE PALMER, *Employee Representative*

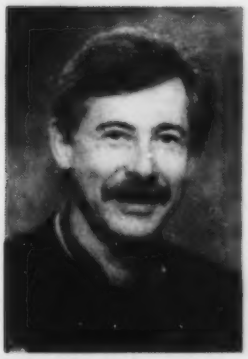
Wayne Palmer was working as a heavy equipment operator on highways in the Yukon Territory when he became President of the Yukon Local of the Public Service Alliance of Canada. He became a representative of the Teamsters Union in 1974 and was elected President of Teamsters Local 213 in 1981. Mr. Palmer retired in 1997. He was appointed to the Board in 1999.

DORIS PENNER, *Employer Representative*

Doris Penner has been a residential building contractor for over 18 years, owning her own company, Quiniscoe Homes Ltd. at Panorama, B.C. She is the immediate Past President of the Canadian Home Builders Association of B.C. and currently serves on the Board of the National Homebuilders Association. Doris currently serves on numerous boards and committees involved with maintaining the health of the residential construction industry. In the past she has served on the executive of both the Yukon and Whitehorse Chambers of Commerce, was the founding President of the Women's Business Network of Yukon, sat as a Director of the Yukon Energy Corporation and Yukon Development Corporation as well as different steering committees having to do with employment in the Yukon. Doris has her real estate sales license, is a residential housing professional, holds a commercial pilot's license and is an aircraft maintenance engineer.

PATRICE PRATT, *Employee Representative*

Patrice Pratt is the Director of Staff Development and Administration for the 60,000 member B.C. Government and Service Employees' Union. After being elected to various offices from 1969 with the Manitoba Government Employees' Union, she was subsequently hired as an Employee Relations Officer. She began working for the BCGEU in 1976 in a number of positions including Staff Representative in Kelowna and Assistant Director in Victoria and Vancouver, and then as province-wide Education Officer. Patrice has served on the B.C. Medical Services Foundation, the B.C. Hydro Board of Directors and as the President for the Canadian Association of Williams Syndrome. She presently sits on the Board of Directors for the Beverage Container Management Board, the Centre for Labour & Management Studies, and is the Board Vice-Chair for the United Way of the Lower Mainland. She is on the Executive Council of the B.C. Federation of Labour and serves on various Federation committees.



DAVID RICE, *Employee Representative*

David Rice is the Regional Director of the Canadian Labour Congress, Pacific Region. From 1974 to 1979, Mr. Rice was a researcher for the Department of Labour where he was also an active member of the B.C. Government Employees' Union, serving four years as a Component Secretary-Treasurer. In 1979, Mr. Rice was appointed Director of Research and Legislation at the B.C. Federation of Labour. Mr. Rice received his M.A. in Economics from Simon Fraser University in 1978. He was a director of the Legal Services Society of British Columbia from 1988 to 1993, serving as Chairperson in 1992/93. Mr. Rice has been an Executive Member of both the Victoria and District Labour Council and the New Westminster and District Labour Council. In 1985 he was appointed Regional Director of Educational Services with the Canadian Labour Congress and in 1989 became Regional Director, Canadian Labour Congress operations in the Pacific Region.

KATHY SANDERSON, *Employer Representative*

Kathy Sanderson previously served the small business community of B.C. as the Chair of the Coalition of B.C. Businesses and as Director of Provincial Affairs for the Canadian Federation of Independent Business. Currently, Ms. Sanderson works as a consultant and in addition to serving on the Labour Relations Board also sits as a member of the B.C. Labour Force Development Board.

FRANZ SCHERUBL, *Employer Representative*

Franz Scherubl has worked in the labour relations field for close to 20 years. He is currently responsible for labour relations, human resources corporate governance and trade training at BC Gas Utility. He has a Bachelor of Commerce and Business Administration degree from the University of British Columbia and has also worked in mining, insurance and retail services.

RON SCHMIDT, *Employee Representative*

Ron Schmidt is Assistant to the Director of District 3 of the United Steelworkers of America, which encompasses the four western provinces and both Territories. He became active in his union in the early '70s as a Shop Steward and by 1975 was serving as Grievance Chairperson and Vice-President of this 2600-member Local in Trail, B.C. During 1975/76 he served as an organizer and in 1977 was appointed to the position of Staff Representative. In 1989 he became Area Supervisor of the Kootenays and B.C. interior. In June 1995 he was appointed to his current position. He has many years of experience in arbitration, negotiations and organizing and has held executive positions on labour councils and the B.C. Federation of Labour.

CATHY SMITH, *Employer Representative*

Cathy Smith is a graduate of the University of British Columbia with a Bachelor of Arts degree, Psychology major. After graduation she worked for the Bank of Montreal in several areas, including Card Services Division and Employee Relations. In 1985 she joined London Drugs Limited as the Director of Human Resources, overseeing all aspects of the Compensation and Benefits, Employee Relations, Administration, Training and Audio Visual functions. Over the past three years Cathy has worked as a consultant in the human resources field. Most recently she joined Mountain Equipment Co-Op as their Human Resources Manager.

MARCIA SMITH, *Employer Representative*

Marcia Smith is the President and owner of Labrador Communications Ltd., a full-service public relations company located in Vancouver. She brings over 15 years of experience in the public policy and communications environments to a wide spectrum of clients in sectors including tourism, resources and construction. Ms. Smith is also active in the Coalition of BC Businesses, an organization which speaks for numerous employer associations on labour and employment policy implications for small and medium-sized businesses.

COLIN SNELL, *Employee Representative*

Colin Snell is the former President and Secretary Treasurer of the British Columbia Provincial Council of Carpenters. Prior to his election in 1985 to the Provincial Council, he was Business Agent of Carpenters' Vancouver Local Union 452 for 15 years. Mr. Snell has held Executive Council positions with the B.C. Federation of Labour, the B.C. and Yukon Territory Building and Construction Trades Council and the Vancouver and District Labour Council.

RON TUCKWOOD, *Employee Representative*

Ron Tuckwood served as President of Office and Professional Employees' International Union, Local 378 and as a Vice-President of the International Union and the B.C. Federation of Labour. He was primarily responsible for bargaining and labour relations on behalf of workers at 28 public and private sector companies in fields such as auto and general insurance, transportation, business machines and electric utility. He also served as a Director of Working Opportunity Fund. Mr. Tuckwood has more than 25 years of diverse labour relations experience.

DUNCAN WILKINS, *Employer Representative*

Duncan Wilkins has worked in the employee/labour relations field for over 20 years. He had extensive experience in the mining and metals industry with Cominco Ltd., prior to a four year term at the Business Council of B.C., following which he has carried on a consulting practice in the areas of labour relations, human resources and general management.

GARRY WORTH, *Employee Representative*

Garry Worth is President of the Pulp, Paper and Woodworkers of Canada (PPWC). He has been active in the PPWC and the Confederation of Canadian Unions since 1979. He was an active member of PPWC Local 10 in Kamloops, including six years as President. During that time he was involved in several sets of negotiations in the B.C. pulp and paper industry as PPWC caucus chair. Mr. Worth has also co-ordinated the certification and negotiation of first collective agreements with smaller groups of workers in the service industry. In addition, he has conducted union education and training seminars for local union shop stewards and executive members.

SUZY YUEN, *Employer Representative*

Suzy Yuen is currently the Director of Human Resources at the Four Seasons Hotel, Vancouver, a position she has held since 1991. After starting her hospitality career with Four Seasons Hotels in 1976, she worked in a number of positions before entering the human resources field in 1983. She has been involved in numerous negotiation committees over the years and serves as a Trustee for the GVHEA-Local 40 Health Care Plan.

As of December 31, 1999, the Board's mediation division consisted of the following mediators:

MARK ATKINSON, *Mediator*

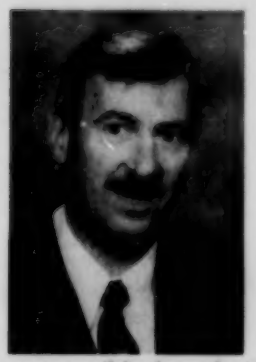
Mark Atkinson has been involved with labour relations since 1981. He is a former Staff Representative and Director with the Hospital Employees' Union. His duties included education, negotiations, arbitration, general collective agreement administration and the co-ordination of essential services. Mark joined the Board as a mediator in 1995.

JIM BRECKENRIDGE, *Mediator*

Jim Breckenridge is a former Senior Conciliation Officer with the Federal Mediation and Conciliation Service of Labour Canada. He was with FMCS from 1980 to 1992 and in that capacity dealt with numerous collective bargaining disputes in British Columbia, Alberta, and both Territories. His prior experience includes five years with the Public Service Alliance of Canada as a Regional Representative negotiating a variety of collective agreements. His other experience includes ten years as a meteorological technician with the Federal Government. Jim has been a mediator with the Board since 1992.

DEBBIE CAMERON, *Mediator*

Debbie Cameron graduated from the Cariboo College Nursing program in 1976 and worked as a registered nurse for the next four years. In 1981 she was employed by the B.C. Nurses' Union, initially as a Labour Relations Officer, then as Negotiations Officer and in 1992 became the Co-ordinator of Hospitals and Organizing. As Hospitals Co-ordinator she was responsible for negotiations and contract administration of all hospital sector collective agreements, covering more than 17,000 employees. Debbie joined the Board as a mediator in 1994.



JIM KELLY, *Mediator*

Jim Kelly joined the Board in early 1992 following a long career in the union movement. After 13 years with Ford Motor Company, Mr. Kelly resigned his position at Ford and as Vice President of Local 707 United Automobile Workers and assumed a position with the Canadian Union of Public Employees as a National Representative, working for 15 years out of the Kelowna office. He has served on numerous arbitration boards and was responsible for administering a variety of collective agreements. Prior to joining the Board in 1992, Jim worked as a private mediator.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Mr. McArthur joined B.C. Rail in 1986 where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

STEPHEN RINFRET, *Mediator*

Stephen Rinfret has worked in both labour relations and human resources in B.C. for over 20 years. Immediately prior to joining the Board, he was Director of Labour Relations Services for the Continuing Care Employee Relations Association (now HEABC). During this time, Mr. Rinfret also taught an undergraduate course in collective bargaining at Simon Fraser University, and a similar course at the British Columbia Institute of Technology. He holds a Bachelor of Science degree from the University of Montreal (Loyola College) and a Masters degree in Business Administration from Simon Fraser University. Stephen has been with the Board as a mediator since 1994.

BARBARA SHARP, *Mediator*

Barbara Sharp has been involved in labour relations since 1974. A former business agent for both the Workers' Compensation Board Employees' Union and the Office and Technical Employees' Union, Local 378, she assumed a wide variety of responsibilities including organizing, education, negotiations, job evaluation, and general collective agreement administration. She has been an instructor for the Canadian Labour Congress, member of the B.C. Federation of Labour Political Action Committee and the New Westminster Labour Council. She has chaired various union committees such as education, women's rights, and acted as representative in grievance arbitration. Barbara is currently on leave from the Board for a three-year term of office as Mayor of the City of North Vancouver.

III.
Highlights of Board Decisions

III. Highlights of Board Decisions

ACQUISITION AND TERMINATION OF BARGAINING RIGHTS

Certification — Appropriate Bargaining Units

Globe Mechanical (1991) Ltd.,
BCLRB No. B28/99 — Application for reconsideration pending

CLAC applied for certification of a bargaining unit consisting of employees employed by Globe in BC except office and sales staff. The United Association of Journeymen and Apprentices of Plumbing and Pipefitting Industry, Local 170, contested the certification on the grounds of bargaining unit appropriateness. Local 170 argued the unit sought by CLAC was a craft bargaining unit for which no certification could be given CLAC. Based on agreed facts, Local 170 emphasized that all of the employees in the proposed unit were plumbers and plumbers' apprentices primarily engaged in the work of the plumbing craft. It further argued Part 4.1 amendments to the Code show that only craft unions can represent craft bargaining units.

The panel first concluded that the governing legislation was not Part 4.1 but Section 21 which sets out the two elements of a craft bargaining unit: (1) employees in the proposed unit must belong to a group exercising distinctive skills; (2) they must be members of one trade union pertaining to that skill set. Failure under the second element does not result in a disability of the applicant union to represent the unit, but rather results in the unit not being a craft bargaining unit. Accordingly, the proposed unit was not a craft unit but an industrial unit appropriate for bargaining. *Held:* CLAC's application for certification granted.

Zellers Inc., BCLRB No. B80/99

The UFCW, Local 1518, applied for certification of a bargaining unit at Zellers' Burnaby location. The Employer was already certified with RWC in Salmon Arm. RWC was granted interested party status and it argued UFCW's application for a second unit was inappropriate because concern for industrial stability outweighed concern for access to collective bargaining at the second or additional stages of certification. RWC further argued that UFCW must rebut the Board's strong policy preference against a second unit and that, as the first union to be certified with a multiple site employer, RWC had a "first right" to be certified at Zellers' remaining sites.

UFCW maintained that, in the absence of concerns raised by the Employer around "proliferation of units" and "industrial instability", it was improper for another union to pursue those issues. UFCW pointed to its experience working along with other unions, like the Meatcutters and the Bakers in the retail food industry, to co-ordinate collective bargaining.

After reviewing the *IML* principles the panel concluded there may be cases at the second or additional stages of certification in which the principle of industrial stability would not outweigh access to collective bargaining. *IML* does not apply rigidly in all cases, but rather outlines the approach to be taken at the second or additional stages of certification. The Board will consider the size of an employer, the number of existing units, whether the employer is in the public or private sector, and the reason why the incumbent union does not represent the employees in the proposed unit. The facts of each case will be weighed against all six community of interest factors in *IML*.

In the present case the panel concluded the size and scale of Zellers' operation throughout the Province, the significant geographic separation between its Salmon Arm and Burnaby stores and the absence of functional integration between the sites, effectively rebutted the presumption against a second unit. If a second unit

was refused, the right of Zellers' employees to access collective bargaining would be overly and unacceptably diminished if only one union was permitted to organize employees at all sites. The right to timely access to collective bargaining of 5,000 employees in 42 stores could not realistically be filtered through a single certification in one store. In allowing the second unit the panel observed that its decision did not finally answer any future question as to appropriate units with the Employer. *Held:* With an agreed-to amendment on the scope of the bargaining unit, the Union's application for certification allowed.

Certification — Membership Support

L-178 Holdings Ltd., c.o.b. Ramada Ltd. Hotel, BCLRB No. B8/99

A Certain Employee and the Employer applied for reconsideration of the Board's decision to grant automatic certification to the Union. Both Applicants submitted the original panel's decision to disallow two membership revocations filed at 4:02 p.m. on the day the Union's application was filed was contrary to the principles express or implied in the Code.

The panel confirmed that 4:00 p.m. is the cut-off time for the filing of applications. However, in reviewing the language of Section 23(1) of the Code and Section 4 of the Regulation, the panel concluded that the backup documents in support of an application are valid if signed and delivered before midnight on the date the application is filed. For example, an application received at 5:00 p.m. on January 2, 1999 will be date-stamped January 3, 1999 and membership evidence, both cards and revocations, will be accepted until midnight of January 3, 1999. Although the timeliness of membership cards and revocations is measured the same way, the latter are also subject to the delivery requirements set out in Section 4 of the Regulation. *Held:* Reconsideration applications allowed.

Skeena Cellulose Inc., BCLRB No. B11/99

CLAC applied under Section 141 seeking leave for reconsideration of original decision, B329/98, granting IWA, Local 1-424's application to withdraw its initial Section 19 application. Based on the IRO Report, the original decision discounted two defective membership cards; found the defective membership evidence did not taint the entire IWA organizing drive; and concluded the IWA's second Section 19 application could be adjudicated.

The Reconsideration Panel first confirmed that the card-based certification system requires strict compliance with the Rules and Regulations. Where concerns are raised regarding the validity of membership evidence, the Board may invoke a range of procedures: order a further investigation; invite written submissions; or conduct a hearing. If the evidence establishes flawed membership evidence the Board may dismiss specific cards or the entire application: *W.G. Enterprises.*

The Reconsideration Panel further confirmed the weight attributed to IRO Reports. Where the parties expressly agree to the Report, or parts thereof, the Board may rely on its contents. However, where the Report is disputed, the Board must use other avenues, such as a formal evidentiary hearing, to determine the issue. In deciding whether to proceed to a hearing the Board will weigh natural justice concerns and membership confidentiality issues.

Applying those principles to the current case, the panel concluded the original decision wrongly relied on the IRO Report in areas where the evidence was contested. Those areas were the two discounted cards, and whether other individuals had signed cards which did not contain the local union number. Moreover, in the absence of an evidentiary hearing, the original panel was not in a position to squarely address the extent to which the two tainted cards, if established, could affect the other cards. Finally, the status of an alleged forged card could only be determined with a hearing. *Held:* CLAC's application allowed; case referred to a new panel.

Fabricland Pacific Ltd., BCLRB No. B53/99 — Application for reconsideration dismissed, BCLRB No. B218/99

The Employer applied under Sections 133 and 136 for an order canceling ILGWU, Local 287's recent certification due to a breach in the Regulations in the signing of a membership card. One employee had signed a membership

card on behalf of an employee on vacation. The employee on vacation appeared to have given written authorization for this process; however a dispute on this issue subsequently evolved. There was no dispute the Board was not apprised of the alleged written authorization at the time of the certification application. Nor was there a dispute the Union Organizer was aware throughout of the card signed in proxy.

The panel first observed the Board sets high standards for the administration of the card-based certification system. The Panel concluded that there is no provision in the Regulation for signature by proxy. Even if wrong in that conclusion, the panel emphasized the Union had a duty to disclose the proxy signature at the time of its application. Had that been done, the parties would have been able to argue the validity of the card at that time. At best, the Union's failure to disclose was serious misrepresentation, and at worst, a fraud. This was not a case of innocent mistake where the remedy could involve the discounting of the impugned card. The flaw had wide-reaching implications going to heart of the certification, and the integrity of the card-based system.

In canceling the Union's certification, the panel attached the condition that in any subsequent certification application the Board would verify membership card signatures against personnel documents. The panel rejected the Employer's argument for a 10-month time bar against a further application for certification as punitive and therefore not in keeping with the Code's remedial intent. *Held:* Under its Section 142 discretionary power, the panel canceled the Union's certification. Conditions attached to any subsequent certification application; however, no time bar imposed.

NAC Constructors Ltd., BCLRB No. B109/99

A Polyparty Union of Building Trades Union applied for certification of a bargaining unit currently represented by CLAC. At issue was the effect of a member's revocation in the context of a raid application. The Union argued the Board's policy is to decline to nullify membership cards solely on the basis of revocation in the circumstances of a raid application and to order a representation vote on the premise that membership was rendered equivocal (see *Ardiem*). The panel rejected the approach in *Ardiem*, determining the *Ardiem* policy to be inconsistent with the principles stated in ss. 19 (1) and 22 (3), as well as the Board's general approach to membership evidence. Instead, the panel held that a revocation filed in a raid application renders the membership cards null. In the result: the requirements of Regulation 4 were met; there was no evidence the revocations were induced by fraud, misrepresentation or intimidation; and the revocations were clear, unequivocal and effective to determine a lack of membership support for the Union's application. *Held:* Polyparty Union's application dismissed.

Skeena Cellulose Inc., BCLRB No. B127/99 — Application for reconsideration dismissed, BCLRB No. B182/99

The IWA Local 1-424 applied under Section 19 to raid a unit certified to CLAC. CLAC alleged that a membership card was submitted on behalf of an individual who did not sign a card. After hearing the evidence, the panel found the card was in fact signed by the individual in question. The panel also found that the IWA local number may have been added by the Union after certain cards were signed. This technical flaw was significant given the need to maintain community confidence in the integrity of the card-based certification process (see *Westfair Foods*). The panel exercised its remedial discretion under Section 140 to order a second representation vote and made other incidental orders. *Held:* Objection granted in part; new representation vote ordered.

United Rentals of Western Canada, Inc., BCLRB No. B491/99

The Employer brought an application under Section 141 for reconsideration of the original panel's oral decision rendered during a certification hearing, denying the Employer's request for the number of employees whose membership cards had been submitted, after the IRO said the IUOE, Local 115 had sufficient support for a representation vote, but the Vice-Chair said there was sufficient support for an automatic certification.

The panel described the Board's procedures in dealing with certification applications and membership evidence, and noted the steps used by the Board to verify the membership evidence. The appropriate procedure, when a discrepancy arises between what the presiding Vice-Chair concludes and what the IRO report suggests based on confidential membership information, is for the affected party to ask whether the Vice-Chair has additional information rather than for the number of membership cards. If the answer is in the affirmative, then the affected party may ask the Vice-Chair to carefully scrutinize the additional information on a confidential basis, to assure the parties that the Board is satisfied of the support claimed.

The panel went on to conclude that the only relevant ruling on membership support is the one made by the Vice-Chair following her review and adjudication of the issue. Any apparent discrepancy between the adjudication result and the IRO report is simply a matter of appearance, not reality. This was not a case in which disclosure of the precise percentage of support was warranted, and the original panel was correct to refuse such disclosure.

After reviewing the file, the panel held that it was satisfied that when the Union initially presented evidence of membership support to the IRO, it overlooked certain membership evidence based on dues payments. That information was provided by the Union directly to the Board after the IRO had completed her investigation. Therefore the base of information from which the IRO operated was incomplete and the IRO's conclusions, though accurate based on what she knew were, through no fault of her own, in fact erroneous. The panel concluded that it was satisfied that at the time the application was adjudicated, the Union had sufficient support for automatic certification.

Finally, the panel rejected the Union's argument that a party may refuse to deal with an IRO. The panel confirmed that parties will deal with the IRO assigned by the Board and failure to do so puts a party's application at risk. *Held:* Employer's application for reconsideration denied.

Decertification

Weston Bakeries Limited, BCLRB No. B205/99 — Judicial review dismissed February 11, 2000.

The Employer applied for reconsideration of B447/98, wherein the original panel declined to grant the Employer's Section 33 application to cancel the certification of the Bakery, Confectionery and Tobacco Workers' International Union, Local 468.

The Employer argued it had entered into a plant closure agreement with the Union in 1993, whereby the Union would retain rights for a "5-year window". The original panel declined to cancel the Union's certification, even though the 5-year period had passed. The onus is on the employer in a Section 33 application to establish there is no reasonable likelihood that it will reopen in the foreseeable future (*White Spot*). On the facts before the original panel, the Employer had provided an assurance regarding its future plans which met the *White Spot* test. Accordingly the Employer's application for reconsideration was granted; and the Union's certification cancelled. *Held:* Employer's application granted.

Certain Employees of the British Columbia Automobile Association, BCLRB No. B282/99 — Application for reconsideration dismissed, BCLRB No. B515/99

Certain Employees worked at two of the Employer's service centres that are included in a multi-location certification held by the Union. They no longer wished to be represented by the Union and applied under Section 142 of the Code seeking what is commonly described as "partial decertification". The Union was engaged in a strike at the time of the application.

For many years, such applications have been adjudicated in accordance with the policy established by the Board in *Westar.* Certain Employees and the Employer submitted the policy was outdated and invited a different approach. At the encouragement of the parties, the Board invited intervenors and the BC Federation of Labour, the Business Council and the Coalition of B.C. Businesses addressed legal issues raised by the application for partial

decertification. The panel acknowledged that the Board has updated most contentious areas of labour relation's policies since the present Code was enacted in 1993. However, the panel ultimately concluded it was not necessary, in the circumstances of this case, to re-visit the *Westar* policy or to address Certain Employees' argument that Board policy under Section 142 should be consistent with "Charter values".

The panel determined the issue of whether Certain Employees should be permitted to apply for partial decertification during the Union's strike was not unique and was previously addressed by Chair Munroe in *Adams Laboratories*. The Board's discretion to cancel certification of a trade union should be exercised in a manner consistent with the balance of the Code and the Board should be most careful in exercising discretion if it would interfere with an on-going collective bargaining struggle (*Adams*). The panel added that when asked to grant partial decertification during a labour dispute over a first collective agreement, the Board should exercise even greater caution (*White Spot; Westar*). Finally, the panel suggested it may be time to re-visit the *Westar* policy but expressed no opinion on the appropriate outcome. *Held:* Certain Employees' application dismissed.

Certain Employees of White Spot Limited, BCLRB No. B440/99 — Application for reconsideration pending

Certain Employees applied: (1) under Section 33 for decertification; and (2) under Section 142 for partial cancellation of the CAW, Local 3000's certification. They argued (1) these applications fit into the exceptions to the general policy on partial decertifications set out in *Westar* and that the policy does not apply; and (2) that the Board's approach to partial decertification set out in *Westar* should be re-visited, the bargaining unit varied, and the ballots cast by the employees in the representation vote should be counted.

First, the panel dismissed the Certain Employees' application under Section 33 on the basis that Certain Employees lacked the requisite threshold support for their application across the bargaining unit as a whole as required in *Baptist Housing*. Second, the panel dismissed the Section 142 application requesting variance of the existing consolidated bargaining unit by varying out the store in question so that a decertification application may be brought for that store under Section 33. The panel rejected the argument that it should revise the *Westar* policy. The panel held that its responsibility was to apply the existing policy as set out in *Westar*. It was not appropriate for an original panel of the Board to re-visit fundamental policy decisions rendered by past reconsideration or specifically constituted "super panels", without persuasive reasons to do so (*BCAA*). The panel held that nothing in the *Westar* decision suggested its application was limited to exclude multi-location certifications, and concluded that partial decertification may be granted for *bona fide* reasons (*Baptist Housing, White Spot Limited*).

Further, the panel held that Certain Employees were incorrect in their assertion that the decertification of one component of a larger bargaining unit would not fundamentally affect the bargaining relationship of the parties (*Marilyn Coleman*), and noted that all members of the bargaining unit would be affected by any decertification decision. All members are therefore entitled to participate in the decision. The panel was not prepared to infer from the facts that it was not realistic that those who sought decertification could not obtain requisite threshold support within the bargaining unit as a whole.

Next, the panel rejected Certain Employees' analogy of joining a union with joining a private club (*Marilyn Coleman*), and rejected the argument that employees may leave the bargaining unit and later rejoin if they change their minds as a fundamental misapprehension and as a principle that would lead to industrial stability and unfairness. The panel also found that the certification and decertification processes, while containing some parallels, are not mirror images.

Section 7 of the Charter provides for freedom from association; the creation or maintenance of a certified unit would not violate that freedom because certification did not compel employees to become union members (*Hemlo Gold Mines*) and designation of a bargaining unit did not create a group or association (*Association of Pro-*

fessional Engineers of Saskatchewan v. SGEU; Tyndall). In any event, any infringement would be justified under Section 1 of the Charter (*Oakes*). *Held:* Certain Employees' application dismissed.

Scope of the Bargaining Unit

Kathy Kim (Canada Safeway Ltd.),
BCLRB No. B450/99 — Application for reconsideration dismissed, BCLRB No. B14/2000

The Applicant applied under Section 139 of the Code seeking a declaration that the provisions of the Collective Agreement between the Employer and the Union did not apply to pharmacists employed by the Employer. That application was supported by more than 80 pharmacists.

UFCW, Local 1518, was certified as the bargaining agent for employees of the Employer in 1952. The Employer did not employ pharmacists at the time of the original certifications. The Employer began to employ pharmacists in 1985 but, through successive agreements, pharmacists were not included in the bargaining unit. In 1997, the Union was successful in having a number of positions which had previously been excluded from the bargaining unit, including the pharmacists, included in the unit. The basis for the application was the parties' agreement that pharmacists were to be included in the bargaining unit. Having considered the circumstances of the case, the panel found the issues of employee choice versus the right of the Employer and the Union to negotiate inclusions into the bargaining unit were not premature. The issue of whether any representational concerns had arisen had been fully argued and, consistent with Section 2(1)(d) of the Code, the panel determined to proceed to answer the questions posed by the application so that the parties could conduct themselves accordingly.

Where a union seeks to assert that a position or group of employees is included in the scope of the unit, the Union will be required to establish its right to represent the employees in issue in one of four ways: (1) by organizing the employees and being certified under Section 18; (2) applying for and being granted a variance of the existing bargaining unit under Section 142; (3) by convincing the Board that the parties have in fact agreed to include the employees in the bargaining unit; and (4) by convincing the Board that the certification already issued encompasses the employees and has not been diminished by agreement (see *Vancouver Museum*). While the original scope of the bargaining unit was broad enough to encompass the pharmacists, the Union and the Employer entered into a 1985 agreement to exclude them from the unit from the time the pharmacists first began to be employed by the Employer and such agreements will be respected by the Board (see *Automatic Electric;* see also *North Shore Neighborhood House*).

On the evidence before the panel, there was no basis to conclude that the diminishment of bargaining unit scope by way of the 1985 agreement was conditional or for a finite period of time. In light of the above, the pharmacists would reasonably have conducted their affairs on the basis of being outside of the scope of the bargaining unit over a considerable period of time, giving rise to the concerns articulated in *Automatic Electric*. Where an employer assigns a new position to a bargaining unit which would otherwise fall outside the scope of the certification, the employer will be deemed to have agreed to the expansion of the unit, which effectively amounts to a voluntary recognition. The panel determined an appropriate balance between the principles of encouraging collective bargaining and ensuring that the pharmacists have a choice in relation to being represented by the Union, was met by ensuring the pharmacists were provided an opportunity to ratify any collective agreement reached in relation to them (*Delta Hospital*). The Union would not be recognized by the Board as the exclusive bargaining agent for the pharmacists until it could demonstrate majority support. *Held:* Application granted in part.

Variance

Great Canadian Casinos Inc.,
BCLRB No. B356/99 — Application for reconsideration pending

The Employer brought an application under Section 139(i) for a declaration that a variance of

the BCGEU's Nanaimo bargaining unit to include groups of employees in Richmond and Vancouver was not appropriate. The CAW held a second certification for another of the Employer's operations.

The panel found that if the variance applications were granted, it would not increase either the number of bargaining units or the number of bargaining agents. In either case, there would be two bargaining units and two bargaining agents. The panel distinguished the *Westburne* decision on the basis that access to bargaining was not an issue in that case. The panel also noted that the *Westburne* analysis appeared to be contrary to the *IML* principles as it implied that two bargaining units certified to the same union at the same employer would have been more appropriate than a single bargaining unit.

The panel held that there was no factual basis to find there would be inevitable whipsawing and multiple strikes. It distinguished *Costco* on the basis that here, a second unit already existed and whether or not variances were granted, the potential for more than one strike existed. Further, given the limited presence of the CAW at this Employer, the risk of whipsawing appeared limited. The panel found it relevant that since its June 1997 certification for dealers at a Vancouver location, the CAW had not filed any application to vary its initial certification to add employees at any other location, whereas the BCGEU had filed three certification applications. The panel concluded that the concern for access to bargaining outweighed the concern for industrial stability in this case.

Finally, the panel noted that if the variances are granted, and industrial stability arose in the future as a result of the existence of two bargaining units, then either party could apply to the Board for consolidation as set out in *IML*. *Held:* Employer's application dismissed.

Voluntary Recognition

University of Victoria, BCLRB No. B190/99

The Complainant Greenwood's application was brought under several provisions of the Code seeking numerous declarations and orders. Some of the resulting issues were preliminary to the merits of Greenwood's complaint and had implications extending well beyond her individual circumstances.

In BCLRB No. B492/98, the panel issued its decision that a document entitled "Guidelines for Short-Term Appointments" was not a collective agreement for the purposes of the Code. This decision provided reasons for that earlier determination, as well as the panel's consideration of these issues: (1) whether the Guidelines and/or other documents constitute a "collective agreement" within the meaning of the Code; (2) whether the Faculty Association had been voluntarily recognized by the University; and (3) whether the Faculty Association was a "trade union" within the meaning of the Code. Regarding issue #1, the panel reasoned that the Faculty Association had not represented Greenwood and other sessional instructors at the University when the Guidelines were negotiated and the sessionals had not approved the Guidelines pursuant to a reasonable ratification procedure; therefore the Guidelines while a binding agreement were not a collective agreement *Delta Hospital; Empire Maintenance Industries.* Regarding issue #2, the entire course of dealings between the parties led the panel to conclude that the Association and the University were not engaged in "collective bargaining" under the Code and a reasonable person could not conclude from the parties' conduct that they intended to establish a relationship which would be governed by the Code. Regarding issue #3, the panel decided not to make a final determination. The panel noted, however, that the restrictions on membership set out in the Association's Constitution and Bylaws would be a substantial impediment to the Association being declared a trade union because a significant portion of the sessional instructors are not eligible for active membership. In summary, the Board lacked jurisdiction to address the merits of Greenwood's complaint. *Held:* Complainant's application dismissed.

Shavick Entertainment, Inc.,
BCLRB No. B258/99 — Application for reconsideration pending

On October 30, 1998, IATSE Local 891 and Teamsters Local 155 (the "Polyparty") applied for certification under Sections 18 and 20 of the

Code. On November 9, 1998, ACFC West made two applications for certification — one for a bargaining unit of employees with AFS Productions and one with Shavick Entertainment. Both applications mirrored the Polyparty application. At the certification hearing ACFC West claimed that the Polyparty application was a raid since ACFC West already had a collective agreement with Shavick Entertainment and AFS Productions was adhering to that collective agreement. The Polyparty argued that this was not a raid because the unit applied for was substantially larger and different than the unit ACFC West claimed to represent.

The applications raised a variety of issues; however, this decision dealt only with the preliminary issue of whether there was a collective agreement between AFS Productions and ACFC West at the time of the Polyparty application. The panel considered successorship and common employer arguments but found that they were not dispositive of the preliminary issue. The panel found AFS Productions agreed on a voluntary recognition basis to adhere to the collective agreement between Shavick and ACFC West which was itself the product of a voluntary recognition since ACFC West held no certification for employees of Shavick. ACFC West was required to have majority support amongst the membership in accordance with guidelines set out in *Delta Hospital*. The film industry has a hybrid of the hiring hall scenario which can be found in the construction industry (*Delta Hospital; Are We Having Fun Yet? Productions*). In this case, the panel's scrutiny of the arrangement between the Employer and the uncertified trade-union involved a consideration of the following factors: at the time that AFS was hiring, it was difficult to locate enough qualified members from the ACFC list; the employees hired all signed bargaining authorizations and authorization for dues deductions; an elected ACFC crew representative acted as shop steward; most employees signed applications for membership; they received representation on grievances from ACFC West and on immigration issues; and there was no evidence that any employee raised any concern or objection to the representation (see *Are We Having Fun Yet? Productions*). The panel concluded that the combination of these factors, with the general membership ratification specific to a hybrid hiring hall, indicated the existence of an adherence to the master Shavick's — ACFC West collective agreement on a voluntary recognition basis — both on the part of the Employer and the part of the employees. These factors also indicated that ACFC West was representative of the majority of AFS employees. *Held:* Preliminary issue determined.

ARBITRATION

CAAB Appointment

Skagit Contractors Ltd., BCLRB No. B461/99

The Employer applied to the Board for it to decline to exercise its discretion to appoint an arbitrator under Section 86 of the Code.

The Union filed a grievance alleging that an employee was "not hired in line with hiring preference" and that the Employer therefore violated the Collective Agreement. Pursuant to Section 86 of the Code, the Union requested that the Director of the Collective Agreement Arbitration Bureau "CAAB" appoint an arbitrator to hear the arbitration of this grievance. The Union had also filed an application under Section 38. The Director of CAAB appointed an arbitrator pursuant to Section 86 of the Code. In doing so, the Director noted that any arguments as to the arbitration board's jurisdiction or any other preliminary issue can be addressed by the arbitration board pursuant to Section 84(2) and Section 89 of the *Labour Relations Code*.

The panel held that, under Section 86, the Director of the Collective Agreement Arbitration Bureau "CAAB", not the Board, is responsible for making arbitrator appointments. Neither Section 99 nor Section 141 provides the Board with authority to review CAAB's decisions or appointment of arbitrators. *Held:* Employer's application dismissed.

Review of Arbitration Awards

Fording Coal, BCLRB No. B107/99

Steelworkers of America, Local 7884, applied for reconsideration of BCLRB No. B539/98. The original panel concluded, on a Section 99 appli-

cation, that an employee on unpaid leave from the Employer while serving as union president was not immune from Employer discipline. The Board agreed with the original panel, stating the Supreme Court of Canada's comments in *Douglas Aircraft* on the status of a union president were distinguishable and not binding in the present case. Further, the Employer's filing of a 23 page outline of argument at the Section 99 oral hearing did not result in a denial of natural justice. The practice of submitting an outline is open to counsel as long as the oral presentation is consistent with the outline, which in turn should be consistent with the written submissions. *Held:* Union's application dismissed.

CONTINUATION OF BARGAINING RIGHTS

Consolidation

Interior Forest Labour Relations Association, BCLRB No. B179/99

The Employer sought declaratory relief under Sections 139 and 143 of the Code regarding the format of bargaining. The ILFRA, a non-accredited employer's association established in 1959, had negotiated and renegotiated a series of master agreements binding ILFRA companies, three IWA locals, and the employees of ILFRA companies. Since at least 1983, the ILFRA companies and IWA Locals had been represented by their respective committees. During the last round of negotiations, one Local refused to ratify the collective agreement negotiated by the ILFRA and IWA committees.

The threshold question before the panel was whether the parties had voluntarily recognized an alternative multi-party bargaining structure. Evidence of an agreed alternative multi-party bargaining structure must be powerfully persuasive: *Metal Industries Association*. The panel found the parties had superimposed a voluntarily recognized bargaining structure on their certified bargaining structure, which was confirmed by the contents of the current Master Agreement, representations and past practice. The panel therefore inferred a repudiation of "enterprise-based" or "certification-based" bargaining by both parties. The panel applied *Northwood* and held that while the voluntarily recognized bargaining structure existed, neither the IFLRA nor the IWA Committee could attempt to pursue a different structure beyond the stage of impasse without failing to bargaining in good faith. The panel determined the force and effect of the *Northwood* policy is that both the employers and local unions affected by this decision could insist upon adherence to the multi-party bargaining structure they had created by agreement, in the absence of agreement by the other to a different structure. The panel concluded that the constituent locals and companies of the two multi-party units were bound by the current Master Agreement which had been appropriately ratified by a majority of the employees and the employers in the two respective multi-party units; and the panel granted a declaration in this regard. *Held:* Employer's application granted in part.

Successorship — Union

Rissling Contractors, BCLRB No. B87/99

Local 1611 applied for reconsideration of BCLRB No. B421/98 in which the panel ruled the bargaining rights and collective agreements between the Labourers and the Employer ceased to exist as of the date the Labourers merged with Local 1611 as a result of the application of Section 37 of the Code. Prior to the merger, the predecessor unions held voluntary recognition bargaining rights with the Employer. Although the original application was brought by the Employer under Section 33(1), the panel decided the case under Section 37 of the Code.

Local 1611 argued the original panel exceeded its jurisdiction in deciding the case under Section 37 which was not argued or advanced by any party. The Reconsideration Panel disagreed. The original panel was correct in holding it did not have jurisdiction to grant a successorship under Section 37 in the context of a voluntary recognition because Section 37 only gives the Board jurisdiction to transfer bargaining rights of a *certified* bargaining agent. It was open for the original panel to determine the consequences which flow under the Code from its lack of jurisdiction to find a successorship. *Held:* Union's application dismissed.

INDUSTRIAL CONFLICT

Essential Services

Prima Enterprises, BCLRB No. B110/99 — Application for reconsideration dismissed, BCLRB No. B166/99

The BCGEU sought a declaration that certain head office personnel/excluded employees were obliged to provide "essential services", as described in the Essential Services Global Order, even though they did not work directly, physically and exclusively in the struck facilities. Certain parts of the Employers' operations were certified with the Union, while others were non-union or certified with other unions.

The Board has discretion to regulate and attach conditions to the provision of essential services under Section 72. The panel determined that where personnel in the ordinary course of their duties attend work sites certified to the Union and have some physical presence or involvement in the operations at the affected facilities/program then they, like "line managers", are *"rationally connected to"* the site and thus a party to the dispute. The parties were directed to determine the number of hours to be dedicated to essential services by the personnel based on a formula provided by the Board. *Held:* Union's application granted in part.

G. R. Baker Memorial Hospital, BCLRB No. B316/99

This is the first Board decision addressing the application of essential services orders to partial job action and arose out of a number of applications made in a collective bargaining dispute involving the BCNU at the Hospital. The decision is limited to guidelines for general interpretation to answer the broad interpretive issues raised by the application because the underlying dispute was resolved.

The BCNU had given strike notice. There was no picket line yet, though the BCNU engaged in various forms of job action. The Hospital implemented essential services plans, and as a result one unit was closed. BCNU and HEU employees scheduled to work in the unit had their shifts cancelled or were told not to report to work.

The panel held, first, the lockout prohibition can extend to employees who are not part of the collective bargaining dispute.

Second, neither the essential services order nor Section 72 overrode the reduction in work provisions of the collective agreement between the Hospital and non-striking employees, and the Section 73(2) exception, allowing the Board to amend the collective agreement to the extent necessary to implement the designation of essential services, does not apply here. Whether a layoff actually occurred in these circumstances was deferred to arbitration.

Finally, essential services orders are directives to unions and employers setting a minimum level of services and facilities that must be maintained to protect the public; they do not mandate such a reduction in staffing levels and services. Whether implementation of an essential services plan is a lockout depends on the circumstances and whether there were compelling reasons to do so. The panel left open the question of how and when essential services orders should be implemented, noting that it may vary with the circumstances. Relevant factors include the length of the transition period to essential services levels. Neither expiry of the 72 hour strike notice nor the existence of a picket line is necessarily the critical time for implementation of essential services. The panel suggested that the parties consider developing protocols to determine how and when essential services orders are to be implemented in the context of partial job action.

University of British Columbia, BCLRB No. B505/99

UBC applied under Section 72 of the Code for the designation of essential services following a direction from the Minister of Labour.

CUPE Local 116 was in a legal strike position and a strike had the potential of disrupting the services supplied by the employees of UBC represented by Locals 116, 2950, 2278, the IUOE, the BCGEU and the OTEU. The Employer requested essential service designations for Local 116, Local 2950 and the IUOE.

The panel discussed the process and principles used to establish essential services, and the tension between the purposes of the Code and

Section 72. A number of the significant essential service decisions have involved health care (see, e.g., *HEABC*, B73/96). The panel determined that due to the Board's lack of experience with essential service designations in the education sector it would proceed cautiously. As a preliminary matter, the panel determined that essential services cases will not be determined on the basis of onus because the Board has a statutory obligation under Section 72 to maintain essential services. The parties agreed to the process to be used in this case and the panel determined, on a "without prejudice" basis, the work schedules that would apply to the unionized employees in the event of a work stoppage. In order to make the process more efficient in the future for all parties involved, the panel recommended that the Board facilitate a discussion involving the Board and the stakeholders in the education community so that a process regarding essential services designations could be developed away from the tension of a live dispute. *Held:* Employer's application granted in part.

Illegal Work Stoppage

KTL Transport Inc., BCLRB No. B485/99 — Application for reconsideration dismissed, BCLRB No. B22/2000

KTL applied for a declaration that a number of its owner-operator truck drivers and the Teamsters, Local 31, were engaged in illegal strike action from July 22 to August 25, 1999 contrary to Sections 32, 59 and 60 of the Code.

KTL operates an intra-provincial trucking business which transports cargo containers to and from the Port of Vancouver.

On July 9, the Teamsters applied to be certified for a bargaining unit of employees at KTL which included the owner-operators. On July 15, 1999 CLAC applied to be certified for a similar bargaining unit at KTL. Board proceedings were commenced to deal with the competing certification applications. Subsequently the parties to those proceedings settled the matter themselves. Under the terms of the Settlement Agreement the Teamsters were granted a certification for a bargaining unit consisting of the KTL owner-operators on August 13.

In the midst of these certification proceedings, a general work stoppage at the Port occurred. It started on July 22, when approximately 450 owner-operator truck drivers servicing the Port withdrew their services. The truckers worked for approximately 40 different employer companies. Approximately half of the truckers were unionized and represented by one of four different unions. The majority of the unionized truckers (approximately 200) were represented by the Teamsters. The truckers withdrew their services to protest the increasingly long line-ups at the Port which were apparently cutting into their flat fee basis for compensation. The truckers withdrew their services in order to try to obtain an hourly wage.

The owner-operators engaged by KTL did not report to work during the work stoppage and consequently on August 9, KTL issued termination letters to all the owner-operators.

The work stoppage officially ended on August 22, 1999 as a result of a negotiated Memorandum of Agreement ("MOA") between a number of trucking companies, the Truckers' Committee, the Teamsters and the other union. The MOA provides an hourly rate for the truckers employed by the signatory trucking companies. KTL did not sign on to the MOA.

Based on the evidence presented in the case, the panel concluded that the Teamsters declared and the owner-operators participated in an illegal strike between July 22 and August 22. The panel found that there was no factual base to support the Teamsters' argument that the Employer induced or encouraged the owner-operators' strike actions.

The panel also found that the Employer's actions of August 9 in terminating the owner-operators did not bring the illegal strike activity to a conclusion. The panel noted that it may, however, be of primary importance in determining any damages claimed with respect to the duration of the strike.

The panel remained seized with the jurisdiction to determine damages flowing from the illegal strike activity noting that while Section 133(1)(d) precludes the Board from awarding monetary damages in relation to conduct regu-

lated by Part 5, this same section empowers the Board to set and order payment of monetary damages for contravention of other provisions of the Code. The parties were directed to make an attempt to settle the amounts owing as between themselves, failing which they were invited to apply to the Board to re-open the hearing for the purposes of determining any monies owing. *Held:* Employer's application granted in part.

Lockout

South Surrey Hotel Ltd., BCLRB No. B303/99

CAW, Local 3000, applied under Sections 59(1) and 61(3)(d) of the Code for a declaration that the Employer had committed an illegal lockout in its decision to close and contract out certain operations of the Hotel. As a preliminary objection, the Employer argued the matter was arbitrable.

The Employer had determined it was in economic trouble and sought wage concessions that were refused by the Union. The Union argued that the request for concessions, followed by layoffs when concessions were not given, constituted an illegal lockout — which is a matter for the Board. The Employer argued the key issue was the appropriateness of contracting out under the collective agreement and the Board should exercise its discretion to defer to the grievance arbitration process (*Repap*). The panel declined to take jurisdiction over the collective agreement interpretation issue (i.e. whether the contracting out was *bona fide*), and determined the interpretation issue was severable from the lockout issue and that its separate determination under the arbitration process was not duplicative of the lockout question. The panel noted the arbitrator's investigation and determination would greatly facilitate and expedite the Board's determination with respect to the legality of the lockout. Further, while the Board could not provide a monetary remedy pursuant to Section 66 of the *Code*, an arbitrator could provide an appropriate remedy if in fact the Employer's conduct in contracting out was not permissible under the collective agreement. The panel did not make a determination regarding the Union's outstanding request for documents. *Held:* Union's application dismissed.

Picketing

Famous Players Inc., BCLRB No. B34/99 — Application for reconsideration dismissed, BCLRB No. B191/99

On December 4, 1998 IATSE, Local 348 (B.C. Projectionists) was locked out by the Employer, and the Union commenced full-scale picketing. On December 9, 1998 the Board granted the Employer's application prohibiting picketing at its new complex, Silver City Coquitlam 20 ("Coquitlam 20"), which was still under construction. At that time no member of the Union had worked at the Coquitlam 20 site and the facility was not open to the public.

On December 18, 1998 Coquitlam 20 opened for business. The Union applied to have the December 9th order vacated and set aside and sought a Declaration that it was entitled to picket at Coquitlam 20. The Union argued the collective agreement gave it the exclusive jurisdiction over new operations such as Coquitlam 20. The Employer argued that, even if the Union's interpretation of the collective agreement was correct, it was entitled to refuse to comply with those terms by virtue of the lockout. Moreover, the picketing could not be lawful given the fact no member of the Union had actually worked at Coquitlam 20. Procedurally, the Union's application was really an attempt to by-pass the time limits of what was really an application for reconsideration of the Board's December 9th Order.

The panel concluded the current application was not a request for reconsideration of the December 9th Order. With the opening of Coquitlam 20 the material facts upon which the original Order was granted had changed, with the result that the Order should be set aside. Based on Sections 2 and 65(3) of the Code and its legislative history, the panel ruled that the essential issue to be determined was whether, but for the strike/lockout, a member of the Union would have worked at Coquitlam 20. The panel weighed the relevance of the Union's province-wide certification for projectionists; the language of the collective agreement confirming that new operations will be represented by the Union; and the existence of a hiring hall provision. Taking these factors into considera-

tion, the panel concluded that but for the strike/lockout a member of the Union would have worked at Coquitlam 20. Accordingly, the site was a place of work of a member of the Union under Section 65(3). *Held:* Union's application granted; picketing allowed.

Lomak Industries Corp., BCLRB No. B52/99

The Teamsters, Local 31 is certified to Lomak Transport, a sister company to the Applicant in this matter. In mid-1998 the Union engaged in a lawful strike against Lomak Transport which officially dissolved in October 1998. Following the dissolution, the Union continued to picket the Terminal where Lomak Transport had conducted its business. Lomak Industries then applied under various sections of the Code for an order prohibiting the Union from picketing the Terminal. The Applicant argued that because Lomak Transport no longer had a legal existence, it was unlawful to picket the Terminal. Absent an "employer", there was no "dispute" allowing the Union to engage in such activities. The Union argued the business of Lomak Transport had not disappeared; the status of Lomak Transport and whether its business was being continued under the name of a sister company Lomak Bulk was the subject of ongoing litigation. According to the Union, until the issue of the continuation of the business under the name Lomak Bulk was adjudicated it would be improper for the Board to end the picketing.

After reviewing Sections 65(3) and 67 of the Code, the panel ruled the picketing was unlawful. Lomak Transport no longer existed; therefore, the only impact of continued picketing would be on Lomak Bulk and the Applicant. No right to picket could arise in relation to these parties unless they were successor or common employers. As Lomak Bulk was certified federally, it was premature for the Board to rule on either of those issues. A contested assertion that the work of Lomak Transport was being continued did not provide a basis for concluding there was a sufficient continuing interest so as to permit picketing. *Held:* Lomak Industries' application allowed.

Sony of Canada Ltd., BCLRB No. B519/99

The Employer applied under Sections 65 and 67 to have the Board restrain leafleting at its premises and to prohibit leafleting the Employer's other stores in the province. The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada, Local 348 (the "Projectionists") and the B.C. Federation of Labour (the "Federation") argued that the leafleting was not picketing, but was a consumer boycott and a form of freedom of expression protected by s. 2 b of the *Charter.* The panel held that this activity constituted "picketing" within the meaning of s. 1 of the Code. Further, the panel held that it was bound by the Supreme Court of Canada's finding in *United Food & Commercial Workers, Local 1518 v. Kmart Canada Ltd. ("Kmart")* that Code definition of picketing "undoubtedly" encompassed consumer leafleting.

This is the first decision regarding application of the Section 1 definition of "picketing" following the SCC's decision in *Kmart,* in which the Court found the definition to be unconstitutional, but suspended its declaration of invalidity for six months in order to permit the legislature to enact a new definition.

The panel considered the six conditions set out in *Kmart* for consumer leafleting to be protected by s. 2 b of the *Charter,* and found these conditions to be satisfied in this case. Even if the leaflet did misstate the Employer's role in the dispute, the authority to regulate picketing did not give the Board authority to scrutinize the content of leaflets to distinguish between accurate and misleading or unclear communications. To the extent that the Board may have any jurisdiction to deal with inaccurate statements in leaflets, it may be limited to a s. 70 application. There was no evidence of what leafleters said to passersby, nor evidence of any threats or acts of intimidation. The panel distinguished between those in attendance as representatives of the media and those engaged in leafleting. The picketing provision was not designed to regulate conduct of the press while covering a labour dispute. The panel found that, in any case, even if the total number of people in attendance was considered, it was not sufficient to "create an atmosphere of intimidation", nor were people physically prevented from entering the store. There was no evidence that access to the Employer's premises was unduly impeded.

Finally, on their face, the leaflets were targeted at customers not workers in the premises. This activity did not prevent employees of neutral sites from working, nor did it interfere with other contractual relationships of suppliers to the neutral sites. The panel found no evidence of attempts to encourage the Employer's or other employees to break their employment contract.

The panel next considered how to handle this issue during the period when the declaration of invalidity is not in effect. The panel held that, given the SCC's ruling in *Kmart*, it was not open to the Board to read down the language of Section 1. The panel recognized the Court's distinction between the power to make declarations of invalidity and a refusal to apply unconstitutional legislation, the supremacy of the Constitution, and the power of a tribunal to hold legislation inoperative for the purposes of the proceeding before it *(Cuddy Chicks Ltd.)* The panel held that, in light of the *Kmart* decision, it would be unconstitutional to apply the Code definition of picketing in this case as the result would be to deny a form of freedom of expression protected by s. 2 b of the *Charter*. Therefore, the panel concluded that it would treat the definition of picketing as invalid insofar as it would, in relation only to this matter and on the facts before the panel, prohibit activity recognized by the SCC as deserving of constitutional protection. The panel observed, but did not decide, that it might also have the power to grant a remedy under Section 24 of the Constitution. *Held:* Employer's application dismissed.

Replacement Workers

British Columbia Automobile Association, BCLRB No. 94/99 — Upheld on reconsideration, BCLRB No. B277/99

The OPEIU, Local No. 378, was engaged in a lawful strike. The Union filed an application alleging the Employer, among other things, used replacement workers, contrary to Sections 6(3)(e) and 68 of the Code.

The panel found the Employer had violated Sections 6(3)(e) and 68(1)(b) by using the services of a training coordinator who "ordinarily worked" at the Employer's head office. The panel found, however, that the Employer had not violated the Code by using three other employees to perform bargaining unit work at struck locations. The panel considered the *BC Hydro* (*Dunleavy*) test and reasoned that, in this case, the determining factor was the employees' regular and direct involvement in the operation of the various service centres. The panel found that in the modern workplace one may regularly work in several places. The dissenting member accepted the Union's submission that an employee "normally has one place where he/she works" and would have granted the Union's application. *Held:* Union's application upheld regarding one employee and dismissed regarding three employees.

British Columbia Automobile Association, BCLRB No. B247/99

The OPEIU, Local No. 378, applied under Sections 6(3)(e) and 68 of the Code, alleging the Employer had used illegal replacement workers.

The Employer first asserted that the Union was aware that since the beginning of the strike, certain supervisors were performing work which the Union alleges is the work of an employee in the bargaining unit. The Employer argued, based on equitable principles found in Sections 71 and 133(1)(c), that the Union should be barred from obtaining any remedy on the basis of delay (*AAHHH More Please Catering*). The panel stated that the Union's application is necessarily built on circumstantial evidence because the Union does not have first hand knowledge of exactly what individuals are doing within the service centres (*V.I. Care Management*) and concluded the Union filed the complaint when circumstantial evidence crystallized to the extent necessary to attempt to make its case. Further, the alleged violations of the Code were on-going and to that extent the application was timely.

The panel noted the purpose of Section 68 is to protect the integrity and viability of the bargaining unit by prohibiting the use of certain classes of replacement workers (*V.I. Care Management*). At the same time an employer is free to operate during a work stoppage. The panel noted Section 68 should be applied in a practical way, taking into consideration the nature of the business. To determine whether bargaining unit

work was being performed by excluded personnel, the panel adopted a generic approach, applying a percentage formula (*Corporation of the City of Vernon*) consistent with the nature of the Employer's business as a service business. The panel rejected a task oriented approach but noted that that approach may be appropriate in an industrial setting where it is easy to assess the specific amount of shared work performed by excluded personnel. The panel assessed the amount of time spent by each supervisor performing shared duties in total and found violations of Sections 6(3)(e) and 68 regarding the Employer's use of one supervisor. The panel ordered the Employer to cease and desist utilizing the supervisor in excess of two hours a day in the provision of direct customer service. *Held:* Union's application granted in part.

East Kootenay Community Credit Union, BCLRB No. B455/99

The Employer applied for reconsideration of BCLRB No. B238/99 which held that the Employer's use of Ms. Hill to perform work during a strike was contrary to Section 68.

The panel upheld the original panel's finding that Hill had been re-hired or re-engaged after the commencement of the strike for the purpose of performing bargaining unit work. Even though the Employer may not have technically terminated Hill, her services had been withdrawn prior to the strike. The panel also concluded that the original decision does not stand for the premise that only employees actually working at the time of the Section 68 triggering event can be deemed to be employees for the purposes of Section 68, as the Employer asserted. The original decision addressed that issue and provided examples (e.g., an individual on recall or long term disability) of when an employee remains an employee under Section 68 of the Code, even though the employee may not be part of the active workforce *per se*. Finally, the panel was satisfied that a person whose employment status is in dispute for the purposes of Section 68(1)(a) is not directly and materially affected by the proceedings in a manner that requires that person to be given notice of those proceedings and be permitted to make separate representations (*Marian Regional High School*).

Famous Players Inc., BCLRB No. B496/99

IATSE, Local 348 applied under Sections 68 and 6(3)(e) of the Code alleging that the Employer was employing replacement workers contrary to those Sections.

Relying on an earlier Board decision involving the same parties, the panel found that the Employer's use of two employees to do projectionists' work did violate Sections 68 and 6(3)(e), because prior to the strike/lockout, the employees had no attachment to the Vancouver Centre location at all, let alone a sufficient attachment, and were strangers to that place of operation. An employer is not entitled to add, after the start of the strike/lockout, another existing place of operation to the place where the employee ordinarily works. The panel ordered an IRO to conduct an investigation and determined to hear further from the parties regarding the precise form of the IRO investigation. *Held:* Union's application granted in part.

Strike Vote

Coca-Cola Bottling Ltd. Embouteillage Coca-Cola Ltee, BCLRB No. B243/99

The Employer alleged Teamsters Local 213 breached Section 59(1) of the Code by taking a strike vote before the Union and Employer bargained collectively in accordance with the Code. The Employer sought declarations, including a nullification of the strike vote. The Board's test for determining whether the authorized representatives have bargained collectively in accordance with the Code is set out in *A.B. Lumber Co.* The panel in *A.B. Lumber* noted the requirement to have "bargained collectively in accordance with the Code" in Section 59(1) is not the requirement to bargain collectively in good faith and to make every reasonable effort to conclude a collective agreement contained in Sections 11 and 47 of the Code. The requirement to discuss the key items in a negotiation is a requirement for an exchange of views, which ensures the parties' constituents have something of substance on which to vote. The Board does not determine whether the substance of the parties' views justifies a lockout or strike vote. Viewing the collective bargaining dispute in the Okanagan in the context of the dispute as

a whole (*Victoria Times Colonist*), the panel: (1) observed that an Okanagan Agreement has historically been concluded after the process of bargaining to an agreement in the Lower Mainland; (2) noted that the parties' February 9 exchange of views in the Okanagan was adequate in itself, while acknowledging the illuminating effect of bargaining in the Lower Mainland; and (3) found no breach of Section 59(1). *Held:* Employer's application dismissed.

P.T. Savage Enterprises Ltd.,
BCLRB No. B445/99

The Employer applied under Section 141 of the Code seeking leave and reconsideration of BCLRB No. B26/99. The original panel dismissed the Employer's application under Section 60(2) in which it alleged that a strike vote conducted by the Union was not a vote in accordance with Section 60(1), but rather merely an administrative vote. The Employer asserted that the original panel breached the principles of natural justice and also argued that the original decision was inconsistent with the principles expressed or implied in the Code. On May 26, 1999 the reconsideration panel issued B195/99, dismissing the Employer's application and these were the reasons for that decision.

The Employer's allegations, that the original panel misrepresented, mischaracterized and overlooked evidence placed before it, were rejected by all five members of the panel and leave for reconsideration was refused in respect of this ground. Regarding the other grounds for reconsideration, leave was granted. However, the majority dismissed the reconsideration while the minority of the panel would have allowed the reconsideration.

The majority determined that the essential element of the pre-strike vote under Section 60(1) was the requirement that a union obtain a strike mandate by means of the democratic expression of the affected individuals. The panel found no basis for accepting the assumption that a promise to employees that they would be given the opportunity to vote on whether to actually strike meant that the employees perceived that there was no possibility of a strike actually happening. The majority was reluctant to expand the Board's supervisory role of a Section 60 vote to determine the state of mind of employees at the time of the vote. In requiring a strike mandate as one pre-condition to an application under Section 55 (together with the requirement that the parties "have bargained collectively"), the Legislature chose to incorporate the process set out in Section 60(1). The majority observed that the Legislature could have chosen to alter Section 60 for the purposes of its application in the Section 55 context, or it could have created an independent pre-condition putting the state of mind of employees into question, but it did not do so. Overall, the majority found no sound labour relations basis on which to conclude that Section 55 justifies a more restrictive standard to a pre-strike vote under Section 60(1). For the above reasons, the majority concluded that the original panel's interpretation and application of Section 60(1) of the Code was correct and accordingly, the original decision to grant the Union's no evidence motion and dismiss the Employer's application was upheld.

The dissenting members accepted the Employer's argument that the unqualified promise of a second strike vote does invalidate an otherwise valid vote under Section 60(1) because it means the employees have not yet given the Union a mandate for strike action. That is, the employees have not yet expressed their true wishes on whether they support strike action. In the minds of the employees and Union, there was still a pre-condition to strike action. Promising a second vote meant that the employees had not yet voted for strike action, the Union did not yet have its strike mandate, and the pre-condition to a Section 55 application was not yet in place. The dissenting members noted that the consideration of whether the Union had, in fact, promised a second strike vote would depend, as it did in this case, on what was said by the Union's Representatives, which would not require an inquiry into the subjective impressions of the individual employee. There was, in fact, in the testimony of at least one witness, evidence that "the Union would take another vote if a strike occurred" and therefore the no evidence motion should therefore have failed. The original panel was therefore required to assess the evidence to determine if a second vote is required. Further, the parties were not given an opportunity to

present arguments on the application of Section 133(4) and the result was the denial of a fair hearing. The dissenting members would have allowed the Employer's application for reconsideration and would have remitted the matter to a new panel to be considered afresh.

INTERNAL UNION AFFAIRS

Natural Justice

United Brotherhood of Carpenters and Joiners of America, Local 1998,
BCLRB No. B437/99

The United Brotherhood of Carpenters and Joiners of America, Local 1237 applied under Sections 10 and 37 for declaratory and injunctive relief against the International Union and Local 2397 for an alleged breach of natural justice by the International in its dissolution of Local 1237 and merger into Locals 1998 and 2397. This decision addressed preliminary, jurisdictional and procedural issues arising out of this application. First, regarding the issue of the Board's jurisdiction to deal with the complaint against the International, the panel held that the scope of Section 10 may extend to some actions of an international taken under its constitution where the local and the international union share the same constitution. The panel interpreted Section 10(1)(a) such that if the issue arose in the constitution of the trade union, the entitlement to natural justice arose, regardless of whether the decision-maker was ultimately an international body. It is the regime of rules operated under, rather than the particular "actor", that determines the jurisdictional issue. In this case, the Constitution of the International was also the Constitution of the Local and the disputed acts of merger and dissolution occurred under that document. Consequently, the panel concluded it had jurisdiction over this matter under Section 10(1)(a). The panel left it to future panels to determine the full extent to which derivative claims through a constitution may be extended, and how far that jurisdiction extended if constitutional provisions of the parent organization and local trade union were dovetailed or only notionally separate.

Next, the panel rejected the claim that there had been no merger and that the Section 37 application was therefore premature. Even if there had been no merger at the time of the application, the panel concluded that that fact was overtaken by subsequent events. An appeal of the General President's merger decision had since been taken and endorsed and, but for the interim relief ordered, the process of merger would have begun. The facts had sufficiently crystallized to allow an inquiry into the issues raised.

Finally, the panel addressed the issue of whether, for the purpose of Section 37, a "claim" was made by reason of a merger of entitlement to representational rights, even though the "claim" was made through the General President's letter. The panel held that the reference in Section 37 to a "claim" did not necessarily require the trade union to bring an application. This term may include "maintaining or seeking to obtain as a supposed right". Local 1237 as a "trade union concerned" had made an application contemplated by Section 37 to test the "claim" that Local 2397 was a successor. Local 1998's application raised the "claim" "in a proceeding before the Board" so as to permit an inquiry into the issues raised by Local 1237. In any event, if this application was dismissed on a technical ground, the issue would return to the Board through other avenues. As Section 156 contemplates, such technicalities should not invalidate proceedings where they do not result in a denial of natural justice. *Held:* International's preliminary objections dismissed.

JURISDICTION OF THE BOARD

Burlington Northern Santa Fe Railway,
BCLRB No. B511/99

The Brotherhood of Maintenance of Way Employees, Lodge 1734, applied under Sections 35 and 36 of the Code to have International Rail Road declared a successor to Burlington Northern Santa Fe Railway and for the transfer of a collective agreement from federal to provincial jurisdiction. The panel determined the preliminary issue as to whether the previous relationship between BMWE and BNSF was governed by the *Canada Labour Code*.

BNSF is an American based railroad company that does business in the United States

and Canada. The majority of BNSF employees, an estimated 6000–8000, work in the US and are US residents; the BNSF employs approximately 24 employees who work in Canada and are BC residents. BMWE was not certified to represent the employees under the *Canada Labour Code*. The collective agreement in place was negotiated and executed in the US. Nevertheless, BMWE was the voluntarily recognized bargaining agent for the BC employees and the business was subject to potential regulation under the *Canada Labour Code*. After reviewing relevant principles and cases *(Royal Roads; American League)* regarding successorship and jurisdiction, the panel determined a collective agreement as defined by the *Canada Labour Code* was in place and there was an actual collective bargaining relationship governed by the laws of Canada. The panel placed significant weight on the fact that a special arbitration procedure had been established for Canadian pension disputes pursuant to a Memorandum of Agreement. The appointment of an arbitrator by the "Minister of Labour" was the strongest evidence of federal regulation of a unionized relationship and the Memorandum of Agreement was an implicit recognition of regulation of a collective agreement under the *Canada Labour Code*.

The panel also noted the difficulty associated with rendering decisions regarding the interpretation of a statute administered by another tribunal. In future, the panel directed that when faced with the prospect of a devolution across jurisdictional borders, unions contemplating a successorship declaration under Section 36 — in similarly uncertain circumstances where thorny jurisdictional questions are raised on sketchy facts — would do well to consider first applying to the CIRB for the applicable rulings, before making application to this Board. *Held:* Union's application granted in part.

Vancouver Tours and Transit, Ltd. YVR Vancouver Airporter, BCLRB No. B130/99

The Teamsters Local 31 sought certification of a bargaining unit of employees driving for YVR Vancouver Airporter ("YVR"). The Employer argued the employees were under federal jurisdiction.

The Employer also operates Charter Bus Lines of British Columbia ("CBL") in addition to YVR. In BCLRB No. B331/96, the Board denied another union's certification application for the same employees on the basis that: (1) CBL and YVR constituted a single indivisible undertaking for constitutional purposes; and (2) since it was undisputed that CBL fell within federal jurisdiction, YVR also fell within federal jurisdiction. The Union argued the panel should follow the reasoning or result of the earlier decision. The panel held in the present case: (1) there had been no legally material change in the Employer's operations since the panel's decision in B331/96; and (2) the analysis and result in the earlier decision are consistent with the jurisdictional test, as it is summarized by the Supreme Court of Canada in *West Coast Energy Inc.* In the result, the labour relations of this single federal work or undertaking continue to be governed by the provisions of the *Canada Labour Code*. *Held:* Union's application dismissed.

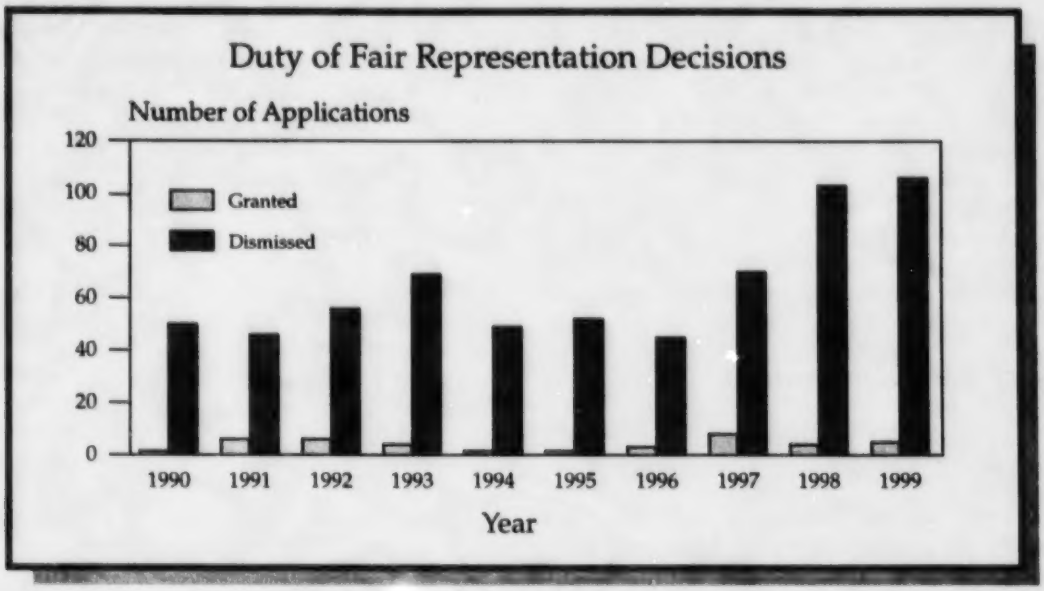
RIGHTS, DUTIES AND UNFAIR LABOUR PRACTICES

Duty of fair representation — General

Overwaitea Food Group, BCLRB No. B67/99

Certain Employees filed a Section 12 complaint against the Union alleging a breach of their minimum rights under the *Employment Standards Act* in the way UFCW, Local 1518 had negotiated vacation entitlement for student employees. The collective agreement limited students' vacation pay to four percent in circumstances where they would have been entitled to six percent under the *ESA*.

The Union argued that it was entitled under the *ESA* to negotiate terms and conditions for some employees which fall below the minimum statutory requirements. The panel ruled that explanation alone was insufficient. On the other hand, just because a negotiated term fell below a minimum standard did not automatically mean Section 12 had been breached. The sufficiency of the Union's explanation would depend on the circumstance. For example, a more persuasive reason would be necessary to justify the removal of minimum benefits historically enjoyed by a group of employees than for



the failure to negotiate improvements to a long-standing discrepancy with the *ESA*.

In the present case the Union was alive to the "meet or exceed" language of the *ESA*, and it made choices in prior negotiations regarding vacation and vacation pay having regard to the bargaining unit as a whole. The Union considered the options, ramifications and legal implications of the bargaining choices it made. On this basis, the Union's conduct was not arbitrary. Moreover, the Union had pursued an individual grievance regarding the same issue, even going so far as to seek a Section 99 review. The Union's conduct in pursuing the grievance was entirely inconsistent with the allegation that it originally agreed to the lower collective agreement provisions for reasons which were discriminatory or in bad faith. *Held:* Certain Employees' application dismissed.

John Cheek and Bill MacMillan, et al,
BCLRB No. B334/99 — Application for reconsideration dismissed, BCLRB No. B402/99

Fifty-five employees complained that the BC Ferry and Marine Workers' Union breached Section 12 when it negotiated a Letter of Agreement amending a provision of the Collective Agreement as a resolution to several grievances.

The panel rejected the Complainants' claim that the Union did not properly investigate and evaluate the grievance issues. The Union filed five grievances. If the Union considered the Employer's interpretation of the collective agreement provision to have no merit based on past practice it could easily have pursued the grievances to arbitration. Instead it entered into negotiations to resolve the grievances, and was clearly within its rights to do so.

The panel also rejected the Complainants' claim that the Union was obligated to involve the members affected. It was obligated to ensure it was fully aware of all the circumstances so it could make a reasoned judgement. By not involving members, the Union ran the risk that it may make decisions absent critical information leading to a violation of Section 12. Here, the matter had been the subject of negotiation and third party intervention over a number of years and changes in the collective agreement, including the Memo of Understanding, were made recently. The Union was aware of its members' concerns. Faced with five grievances, and knowledge of the issues in collective bargaining, an adequate investigation did not require extensive contact with the members. The Letter of Agreement affected more employees than just the Complainants. The panel found that the Union considered the ramifications of the document and considered it to be beneficial to the employees as a whole. The panel rejected the Complainants' argument

that the recent rejection of a contract renewal package that included the LOA, demonstrated that the LDO was not supported by the employees. Rejection of proposals shows rejection of the entire package, not necessarily an isolated provision in a package. Finally, the panel held that it did not have jurisdiction to decide the correct interpretation of a union's constitution. That was a matter for the court. *Held:* Complainants' application dismissed.

Duty of Fair Representation — Remedy

Coe Manufacturing Company Canada Inc., BCLRB No. B257/99

The International Association of Machinists and Aerospace Workers, Lodge No. 692, chose not to proceed to arbitration in the course of handling Derksen's termination grievance and Derksen alleged the Union breached Section 12 of the Code.

Derksen, a 16 year employee, was terminated following an alleged assault on Werner, a fellow employee. Werner was a relatively new employee in Derksen's charge. Derksen testified that Werner did not practice safe work habits and Derksen testified he "blew it" when he approached Werner following a near accident. The panel determined that the issue was not what occurred, but rather what investigation the Union undertook into what occurred. From the evidence, the panel inferred that the Union chose to believe Werner over Derksen based upon an eye witness to the incident itself; but the panel found no evidence that any effort was made to look into events leading up to the incident and Werner's alleged insubordinate attitude toward Derksen's instructions. The panel found that the Union acted in an arbitrary manner in breach of Section 12. There was no evidence before the panel that the Union turned its mind to the weight to be given to the possible mitigating factors, or surrounding circumstances in order to make a reasoned decision or a thoughtful judgement on whether to arbitrate the grievance. The higher standard required of a union in a termination case was not met, as the Union did not demonstrate that it took into consideration all of the relevant factors including Derksen's seniority, age, past disciplinary record and apology in determining whether the Employer had "just cause" for dismissal. The Union was not required to be correct; but was obliged to demonstrate it had turned its mind to all the factors that would be considered by an arbitrator under the test set out in *Wm. Scott.* The panel ordered that the matter be referred to arbitration; that time limits be waived; and that the arbitrator be agreed upon by the Employer and Derksen. The panel deferred the matters of remedy and potential allocation of damages to the arbitrator and ordered the Union to pay the reasonable legal costs of Derksen's independent legal counsel at the arbitration *Kelland. Held:* Derksen's application granted.

Duty of Fair Representation — Timeliness

Joe Frank, BCLRB No. B236/99

The Complainant applied under Section 12 of the Code alleging the Teamsters, Local 213, breached its duty of fair representation.

The Complainant was a 17-year employee who was discharged during a personally stressful period of his life. The Section 12 application was filed approximately 26 months after the Complainant learned the Union would not proceed to arbitration. There is no time limit for filing a Section 12 complaint; however, the Board has jurisdiction to dismiss a duty of fair representation complaint where there has been excessive delay. This authority does not arise from either the Board's general power to determine its own practice and procedure, or from the application of equitable doctrine. Rather, the Board has for many years had a discretion under what is now Section 143 of the Code to refuse to inquire into a complaint (see *Michael Stuart Winning).* This discretion has not been affected by the enactment of Section 13(1)(a) which is directed to determining whether the evidentiary assertions in a complaint disclose an apparent violation of the Code. The period for filing a Section 12 complaint is measured in months and not years. The Board has generally declined to proceed where more than a year has passed since the complainant knew, or ought to have known, of the events giving rise to the alleged contravention of the Code. In determining whether there has been excessive delay,

numerous factors are considered, including the length of the delay and the nature of the explanation for the delay. *Held:* Complainant's application dismissed.

Unfair Labour Practices — Employer Misconduct

Pride Beverages Ltd., BCLRB No. B193/99

The United Food and Commercial Workers International Union, Local 1518, applied under Sections 6 and 32 alleging the Employer violated the Code by disciplining an employee in April, 1998, by changing his work conditions in April 1998, and, by terminating his employment in October 1998. The Union's application was filed April 14, 1999 and this preliminary decision concerns the timeliness of the Union's application.

The panel noted that no statutory time limits apply regarding Sections 6 or 32 complaints. However, timeliness is essential to further the purpose of Section 32 which is designed to prevent an employer from unilaterally implementing changes that have a chilling effect on a union's ability to achieve certification and conclude a collective agreement. The panel dismissed the one year old Section 32 complaint as untimely. The panel also dismissed the Section 6 aspects of earlier discipline that had been overtaken by the subsequent termination. The Section 6 complaint relating to the employee's termination was only six months old and the panel determined to proceed with this part of the Section 6 complaint. *Held:* Union's application granted in part.

Chapters Inc., BCLRB No. B283/99

CAW, Local 3000, sought certification under Section 18 of the Code and also applied under Sections 6 and 9 alleging the Employer terminated four employees for anti-union reasons. The Employer and Certain Employees applied under Sections 7 and 9 alleging the Union organized on company time; intimidated employees to sign membership cards; and made misrepresentations to employees.

The Employer persuaded the panel that the terminations were not tainted by anti-union animus. The panel also concluded that neither coercion nor intimidation were used as organizing tactics in violation of Section 9. While two employees were victims of peer pressure, that does not fit within the definition of coercion and intimidation found in Section 9 *(Shaftebury Brewing)*. The panel found limited incidences of organizing at the workplace during working hours contrary to Section 7. Regarding remedy, the panel reviewed a number of factors, including how disruptive the organizing was to the workplace *(Granville Island; Erickson Gold Mining)*, as well as the severity of the violation *(Lansdowne Dodge)*. The panel rejected the argument that the Section 7 violation introduced a serious cloud of unfairness *(Plateau Mills)*. The panel concluded that two violations of Section 7 occurred but they were neither so disruptive to the workplace nor so egregious in nature as to warrant a representation vote. The panel granted the Union's application for certification but cautioned the Union to advise any organizers that they are prohibited from organizing at an employer's workplace during employees' working hours. *Held:* Applications of the Union, Employer and Certain Employees granted in part.

Harbour Electric Ltd., BCLRB No. B96/99 — Application for reconsideration dismissed, BCLRB No. B360/99

The GWU filed an application for certification in the fall of 1998 to represent the employees of Harbour Electric. The IBEW, which was already certified for another group of employees of Harbour Electric on Vancouver Island, alleged that both the Employer and the GWU had committed unfair labour practices to discourage its organizing efforts and to support the GWU.

The panel ruled that, contrary to Sections 6(1) and 6(3)(d) of the Code, the Employer threatened to close its operations in order to dissuade employees from choosing the IBEW as a bargaining representative. The panel also found that the Employer arranged contact between its employees and the GWU. The panel dismissed GWU's application for certification on the basis that the membership evidence was not a reliable indicator of the employees' true wishes. *Held:*

GWU's certification application dismissed; IBEW's unfair labour practice complaint upheld.

Catholic Independent Schools Diocese of Prince George, BCLRB No. B343/99 — Application for reconsideration dismissed, BCLRB No. B434/99

Certain Employees sought decertification under Section 33(2) of the Code. The BCGEU complained under Sections 6 and 9 that the Employer engaged in various unfair labour practices.

The panel concluded that the Employer had improperly interfered with its employees' decision-making process. The Employer had repeatedly communicated its support for decertification — by arranging a captive audience meeting, approving and then distributing letters from parents through its internal mail system, approving and internally distributing two letters which clearly conveyed the message that the school would close unless the Union was decertified, and requiring a public apology from one employee regarding communications on behalf of the Union. In sum, the Employer had improperly engaged in a decertification campaign contrary to the Code. It had interfered with the administration of the Union contrary to Section 6(1); sought to compel and induce employees from continuing to be members of the Union contrary to Section 6(3)(d); and used coercion and intimidation that could reasonably have the effect of compelling or inducing a person to cease to be a member of the Union contrary to Section 9 of the Code. The panel determined that the Employer's interference had been highly coercive and intimidating (*Delta Hotel Ltd.*) such that the decertification vote would not have disclosed whether the employees truly wanted the Union to continue as their bargaining agent. The panel ordered that the ballots cast in the representation vote would not be counted, dismissed Certain Employees decertification application and confirmed the ten month time bar on further applications for decertification under Section 33(3)(b). *Held:* Certain Employees' application dismissed.

Unfair Labour Practices — Union Misconduct

Coast Mountain Buslink Company Ltd., BCLRB No. B410/99

The Employer sought a declaration that CAW and ICTU, Locals 2 and 11, breached Section 7, and an order that both Unions cease and desist from organizing activity on the Employer's property.

The panel held that the Section 7 prohibition against organizing at an employer's place of employment during working hours, though restrictive, is not absolute (*Cominco*). Employees who, because of their work schedule, are present at the place of employment with the implicit consent of the employer may, during their break times, organize or attempt to persuade fellow employees to join or not join a trade union.

Sections 7(2) and (3) limit the Board's jurisdiction to permit entry to an employer's place of employment for the purpose of organizing to circumstances such as where employees reside on the employer's property. Therefore, as in this case, if an employer refused to consent to organizing at its places of employment during working hours, absent a finding of unfair labour practices, the Board has no jurisdiction to set aside the employer's decision and must enforce the prohibition under Section 7(1).

Therefore, the panel declared that the complained of organizing by CAW on buses and at bus loops violated Section 7(1). Although the Board has said that where a Section 7(1) violation was merely technical, the Board would simply issue a declaration (*Granville Island Hotel & Marina*), the Board may do more in circumstances where the frequency of organizing is such that the violation cannot be considered minimal or aberrant or has the potential to interfere with the employer's operations. In those cases, a cease and desist order may be appropriate. If actual disruption to an employer's business is proven, then the Board may order additional remedies. Given the frequency of CAW organizing at bus loops, the panel made a cease and desist order applying to buses and bus loops.

The panel dismissed the Employer's request for a prohibition on employee-to-employee discourse during schedule recovery time and that its cafeterias and all termini be covered by the cease and desist order. Operators on a break were free to speak with another operator in similar circumstances in order to disseminate union information or to attempt to persuade the other operator to join a particular union within the parameters of *Cominco*. The same principles applied to any other employees in the bargaining unit on an authorized break.

Regarding termini, the panel found that on-street termini did not constitute Employer property or places of work within the meaning of the GVTA Act or the Code. They were merely a geographic point at which bus routes ended. Consequently, the Employer was not entitled to preclude organizing at termini.

However, the panel agreed that safety concerns applied to safe operation of buses on municipal streets and therefore the interim order prohibiting CAW and ICTU from organizing on buses, including the conditions prohibiting conduct intended to attract an operator's attention while the operator remained on the bus, was made permanent.

Finally, the panel declared that organizing at transit depots and transit centres violated Section 7(1), and ordered CAW and ICTU to cease and desist. This order did not apply to cafeterias at the Oakridge and Burnaby transit centres. The Employer had offered them to CAW and ICTU as an organizing venue, and the panel found that this offer contained an implicit consent. *Held:* Employer's application granted in part.

IV.
Judicial Review

IV. Judicial Review

JUDICIAL REVIEW SUMMARIES FOR THE ANNUAL REPORT

Appropriate bargaining unit

1. ***O.P.E.I.U., Local No. 378 v. Labour Relations Board, et al*** (January 14, 1999), Vancouver Registry No. A981714 (B.C.S.C) Boyd J.

The Union applied to be certified as the bargaining agent for a unit of employees working at Costco. Of Costco's nine locations in B.C., one was already certified to another union. O.P.E.I.U. sought to certify a second location. The Employer contested the application on the grounds a second bargaining unit was not an appropriate unit for collective bargaining, and that certain employees excluded from the Union's proposed bargaining unit ought to be included. The Original Panel in B168/98 dismissed the application for certification and the Reconsideration Panel in B220/98 affirmed that result concluding the IML presumption against multiple units had not been rebutted.

In applying the patently unreasonable standard of review the Court made the following findings: (1) the Board does not fetter its discretion by following guidelines or precedents previously established and adopted in *IML* and other decisions; (2) the Board did not rely on extraneous considerations; (3) the Board's analysis was not patently unreasonable with respect to the issues of "functional integration", and "industrial instability". *Held:* Union's judicial review application dismissed.

Arbitral review

2. ***Labour Relations Board of British Columbia v. City of Kelowna et al*** (25 March 1999), Vancouver Registry No. CA024233 (B.C.C.A.) Southin J.A., Rowles J.A., Prowse J.A.

The City had successfully brought an application for judicial review of Board decisions under Sections 99 and 141 of the Code in which the Board found an arbitrator had erred and remitted the matter back to the original arbitrator. The decisions of the Board were set aside by the Supreme Court on the basis that the Board's decision to remit the matter to same arbitrator was patently unreasonable.

The Board appealed the Supreme Court decision to the Court of Appeal. The Court of Appeal held that the Board's decisions were not patently unreasonable as the original arbitrator could be expeced to provide the parties with a fair rehearing given that his error had been an error of law. *Held:* Board's appeal allowed.

Cancellation of certification on application by employer

3. ***Bakery, Confectionary and Tobacco Workers' Union, Local 468 v. Labour Relations Board of British Columbia and Weston Bakeries Limited — Boulangeries Weston Limitee*** (11 February 2000), Vancouver Registry No. A992142 (B.C.S.C.) Koenigsberg J.

An original panel of the Board had dismissed the Employer's application for decertification under Section 33(1). On reconsideration, a panel of the Board overturned the original panel and granted the Employer's application. The Union applied for judicial review, arguing that the reconsideration panel had erred in granting leave

to reconsider the original decision and had improperly interfered with the original panel's findings of fact.

The Court found that the proper application of the test for decertification was a policy matter within the Board's jurisdiction and that the reconsideration decision was not patently unreasonable. The Court further found that a reconsideration panel of the Board was entitled to draw different factual interences from those drawn by an original panel. *Held:* Union's application for judicial review dismissed.

Common employer

4. ***White Spot Limited v. British Columbia Labour Relations Board et al*** (15 February 1999), Vancouver Registry No. CA23476 (B.C.C.A.) Hollinrake J.A., Goldie J.A., Finch J.A.

In BCLRB No. B352/96, the Board upheld on reconsideration an earlier Board declaration (BCLRB No. B191/95) that White Spot and Gilley Restaurants were common employers under s. 38 of the Code. White Spot's appeal to the Supreme Court for an order quashing the Board's decision was dismissed.

In this case the Court considered whether the Board had jurisdiction to make a common employer declaration under s. 38 based on the same facts that led to mandatory application of s. 35 successorship provisions. First, the Court found that the mandatory nature of s. 35 did not transform the Board's inquiry into a jurisdictional issue. If the Legislature had intended otherwise, it could have made s. 38 subject to s. 35.

Second, the Court found that, in the present case, it was open to the Board to find a labour relations purpose in maintaining the previous collective bargaining structure. Even if it could be said the Board extended rather than preserved the Union's rights, it was not precluded from making such a declaration. Although the Board's jurisprudence to date indicated that the Board would not use s. 38 for such a purpose, nothing prevents the Board from changing its jurisprudence.

Third, the Court applied a functional and pragmatic approach to determine whether the matter was jurisdictional. The Court noted the Board is a highly specialized, expert tribunal entrusted to administer a comprehensive statute with purposes set out in s. 2(1) of the Code. The Board's powers are broad and must be used to facilitate the purposes and objects of the Code, as reflected in s. 2(2) of the Code. Further, the Board has exclusive jurisdiction over a large range of matters, as set out in s. 139 of the Code, and the purposes of ss. 35 and 38 are important. Finally, the Board's jurisdiction to issue a common employer declaration pursuant to s. 38 is not limited by any other provision of the Act.

Finally, the Court held that the Board's decision was not patently unreasonable. *Held:* Employer's appeal dismissed.

5. ***White Spot Ltd. v. British Columbia Labour Relations Board et al,*** *Held:* Application for leave to appeal decision of the B.C.C.A. to the Supreme Court of Canada dismissed without reasons (17 February 2000).

Duty of fair representation

6. ***Roger Callow v. British Columbia Labour Relations Board*** (7 October 1999), Vancouver Registry A990790 (B.C.S.C.) Sigurdson J.

Callow's application for judicial review of BCLRB B50/98, in which a reconsideration panel of the Board dismissed his Section 12 complaint. The Court held that Callow had not demonstrated that the Board's decision was patently unreasonable. The Court further found that, with this proceeding, Callow really sought a rehearing of his s. 12 complaint, and the duty of fair representation is a matter clearly within the Board's jurisdiction and expertise. *Held:* Callow's application for judicial review dismissed.

Immunity of Panel Members

7. ***Jamie Richardson** v. **Michael Fleming*** (4 October, 1999), Vancouver Registry No. 98-48478 (B.C. Prov. Ct.) Arnold J.

In BCLRB LD B414/98, Richardson was awarded compensation after an original panel of the Board found he had been terminated contrary to the Code. The panel was specific about the monetary amount to be paid, but did not calculate deductions to be taken from that amount. The original decision was filed in the Supreme Court, and returned by Bauman J. to the original panel for a further stipulation as to the amount of deductions required to be made. Richardson then brought a civil claim against the Vice-Chair that constituted the original panel, claiming that he had been reckless and negligent in issuing a decision that as defective and unenforceable, and claiming that this caused him further hardship, expense and time.

The Court found that the original panel was not negligent, and went on to find that, even if the panel had been negligent, individuals serving on Board panels enjoy an immunity for their actions provided their actions are taken in their capacity as panel members. If Vice-Chairs turn their minds to the matters before them in good faith and act within their jurisdiction there is no basis for a civil suit. The Court found there was no question the Vice-Chair in this matter had been acting in his capacity as a Vice-Chair of the Labour Relations Board.

Finally, the Court observed that if a complainant is dissatisfied with a Board decision, the complainant can apply to reconsider it, but cannot sue the decision-maker in his or her personal capacity in a civil action unless the complainant can show that the decision exceeded the panel's jurisdiction or was clearly committed in bad faith. *Held:* Small claims civil suit dismissed.

Jurisdiction of arbitration on defamation action.

8. ***Fording Coal Limited** v. **U.S.W.A., Local 7884 et al*** (January 26, 1999), Vancouver Registry No. CA024051 (B.C.C.A.) McEachern J.A., Rowles J.A., Ryan J.A.

Fording Coal appealed directly to the Court of Appeal under Section 100 of the Code from the decision of an arbitrator who ruled he had jurisdiction to decide a defamation dispute between the Employer and the Union.

The Union argued the matter properly belonged in the grievance procedure as the dispute arose out of the parties' collective bargaining relationship. The Employer maintained the opposite — that the matter was beyond the scope of a collective agreement and therefore properly a dispute over which the Courts have exclusive jurisdiction.

Writing for the majority, the Honourable Chief Justice McEachern found the dispute, properly characterized, was not one about production or safety, but about alleged false and harmful statements made by a Union official. As such "the context of the Collective Agreement is not broad enough to exclude the Company's right of recourse to the regular Courts for this action of defamation." *Held:* Employer's appeal allowed; arbitrator's award set aside; a finding that the matter could proceed in B.C.S.C. as a defamation action.

Jurisdiction of Board on human rights matters

9. ***United Steelworkers of America, Local 7884** v. **Fording Coal Limited et al*** (23 September, 1999), Vancouver Registry No. CA025370 (B.C.C.A.)

National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW-Canada), Local 3019** v. **Westmin Resources Limited et al (23 September, 1999), Vancouver Registry No. CA025377 (B.C.C.A.)

Public Service Employee Relations Commission v. B.C. Government and Service Employees' Union (23 September, 1999), Vancouver Registry No. VO3278 (B.C.C.A.) Huddart J.A., Hollinrake J.A., Finch J.A.

This involved three appeals concerning the Court's jurisdiction under Section 100 of the Code to review arbitration awards concerning the *Human Rights Code* and the Code's "just cause" provisions.

With regard to the Westmin and Fording cases, the Court found the substance of the award was a question of general law concerning the duty to accommodate and as such was properly before the Court under Section 100. In the PSERC case, the arbitrator had not been required to construe the *Human Rights Code* or any principles implied in it. Therefore, the Court found there was no principle of general law and the Board had jurisdiction to review that award under Section 99 of the Code.

The Court found that the *Human Rights Code* is an Act "intended to regulate employment relationships", and therefore arbitrators have jurisdiction to apply the Act under s. 89(g) of the Code. However, the language used in s. 99 of the Code is different, limiting the Board's review jurisdiction to statutes dealing with "labour relations". Therefore, the Court held that the Board lacks jurisdiction to review awards where the decision is based on application of general legal principles which are not essential to the integrity of the system of collective bargaining. *Held:* Westmin and Fording appeals allowed; PSERC appeal dismissed.

Mootness / Standing

10. ***British Columbia Labour Relations Board and Keith Oleksiuk v. C.D. Lee Trucking Ltd. et al*** (15 September, 1999), Vancouver Registry No. CA025412 (B.C.C.A.) Esson J.A., Hollinrake J.A., Saunders J.A.

The chambers judge in the Court below made an order prohibiting the Chair and two Vice-Chairs from being involved with the subject matter of any complaint between the C.D. Lee Trucking Ltd. and the Union. This order was appealed by the Chair and the Board. Neither the Union nor the Employer participated in the appeal.

The Employer brought an application seeking to quash the appeal on two grounds: (a) that the appeal was moot as the Board proceedings arising out of the Union's unfair labour practices complaints had settled; and (b) the appellants had no standing to bring the appeal.

The Board and the Chair argued that the appeal was not moot in respect to any aspect of the order but, as an alternative, submitted that because the order prohibited the Chair and two Vice-Chairs from involving themselves in any way with any complaint between the employer and the Union, the order was clearly not moot.

The Court found that it would be inappropriate to decide these issues on a preliminary application, and without deciding any of the issues raised by the application, it dismissed it without prejudice to the right of any party to pursue these matters on the hearing of the appeal. *Held:* Employer's application dismissed.

Picketing

11. ***United Food and Commercial Workers, Local 1515 v. Kmart Canada Ltd. et al*** (9 September 1999), Supreme Court of Canada Registry No. 26209 (S.C.C.) Lamer C.J., L'Heureux-Dube J., Gonthier J., Cory J., Iacobucci J., Major J., Binnie J.

During a labour dispute involving two Kmart stores, Union members distributed leaflets at other Kmart stores, not involved in the dispute. These leaflets described unfair labour practices committed by Kmart, and encouraged people to shop elsewhere. The Board (the Industrial Relations Council at the time) ordered the Union to refrain from picketing at the secondary site. The Union's reconsideration application was dismissed as moot because the labour dispute had since been resolved. However, the Board concluded that the restriction of secondary picketing in the

Code was overly broad. The Union's applications for judicial review and appeal of the judicial review were dismissed by the Courts.

The Supreme Court noted that the fundamental freedom to speak about matters relating to working conditions was recognized in s. 64 of the Code and observed that leafleting has historically been an effective and economical method of providing information and assisting rational persuasion.

The Court held that the s. 1(1) Code definition of "picketing" is overly broad, as it "undoubtedly" includes leafleting. The Court found the combined operation of ss. 1, 65, and 67 of the Code restricts consumer leafleting and consequently infringes the s. 2(b) *Charter* guarantee of the freedom of expression.

The Court then found that this infringement could not be justified under s. 1 of the *Charter*. The Court distinguished leafleting from picketing on the basis that leafleting lacks the coercive element of picketing. Leafleting seeks, through informed and rational discourse, to persuade members of the public to take a certain course of action. Any effects flowing from leafleting would be the same as those arising from a permissible consumer boycott campaign. Further, the Court noted that although a restriction on conventional picketing activity at sites other than those involved in the labour dispute is rationally connected with the objective of the legislation, the existing restriction on leafleting activity is overly broad.

The Court identified as a key factor in determining whether consumer leafleting is an acceptable activity, whether consumers are able to choose either to stop and read the material or to ignore the leafleter and enter the neutral site unimpeded. The Court found that, here, the leafleting fulfilled the following conditions:

12. the message conveyed by the leaflet was accurate, not defamatory or otherwise unlawful, and did not entice people to commit unlawful or tortious acts;

13. although the leafleting activity was carried out at neutral sites, the leaflet clearly stated that the dispute was with the primary employer only;

14. the manner in which the leafleting was conducted was not coercive, intimidating, or otherwise unlawful or tortious;

15. the activity did not involve a large number of people such as to create an atmosphere of intimidation;

16. the activity did not unduly impede access to or egress from the leafleted premises;

17. the activity did not prevent employees of neutral sites from working and did not interfere with other contractual relations of suppliers to the neutral sites.

Leafleting which complies with these conditions would normally constitute a valid exercise of freedom of expression carried out by lawful means. However, it would not be permitted by the provisions of the Code in question.

The Court found that ss. 1, 65 and 67 of the Code operated as a blanket prohibition on any persuasive activity by striking or locked out employees at sites other than those involved in the labour dispute. It found that such a total prohibition is not carefully tailored to the objective of minimizing the harmful effects to third parties which would result from others impeding access to premises or encouraging employees to break their contract of employment.

Therefore, the Court struck down the s. 1(1) Code definition of "picketing", and declared it to be of no force or effect by reason of s. 52 of the *Constitution Act*. However, the Court suspended the declaration of invalidity for six months to give the Legislature an opportunity to amend the invalidated provision. *Held:* Union's appeal allowed.

Applications for Judicial Review which were heard by the Court in 1999 and for which decisions are pending:

1. ***Office & Professional Employees' International Union, Local 378 v. Labour Relations Board of British Columbia, and British Columbia Automobile Association*** — Judicial review of BCLRB No. B198/99 (Vancouver Registry A991490). Matter heard August 6 and September 30, 1999. Subject matter: interpretation of Section 68 "ordinarily works".

2. ***Pacific Press, a Division of Southam Inc. v. Graphic Communications International, Local 25-C*** — Judicial review of BCLRB No. B197/98 (Vancouver Registry A981527). Matter heard December 10, 1999. Subject matter: union official immunity from discipline.

Applications for Judicial Review or Appeals filed in 1999 and not yet heard by the Court:

1. ***Corporation of the City of Kelowna v. Canadian Union of Public Employees, Local 338, and Labour Relations Board of British Columbia*** — Employer's application for leave to appeal to S.C.C. outstanding. Subject matter: remittal to original arbitrator.

2. ***Westbank First Nation, also known as the Westbank Indian Band, as represented by Brian Eli, Chief, Larry Derrickson, Clarence Clough, Deanna Hamilton, and Wayne Eli, Councillors, and the Westbank First Nation Development Co. Ltd., formerly known as the Westbank Indian Band Development Company Ltd. v. British Columbia Labour Relations Board, British Columbia Government Employees' Union, British Columbia Nurses' Union, The Ministry of the Attorney General of British Columbia, and The Attorney General of Canada*** — Employer's appeal to the B.C.C.A. from the decision of the B.C.S.C. pronounced October 31, 1997 (Vancouver Registry CA023923). Matter to be heard March 1 and 2, 2000. Subject matter: jurisdiction; constitutional division of powers.

3. ***CenAlta Well Services v. Communications, Energy and Paperworkers Union of Canada, Local 686B, Labour Relations Board of British Columbia, Certain Employees of CenAlta Well Services Inc., and The Attorney General of British Columbia*** — Judicial review of BCLRB No. B202/98 (New Westminster Registry S047370). Hearing dates not set. Subject matter: jurisdiction; inter-provincial oil work.

4. ***Roger Callow v. The British Columbia Labour Relations Board, West Vancouver Teacher's Association, The Board of School Trustees of School District No. 45 (West Vancouver), and The Attorney General for British Columbia*** — Appeal to the B.C.C.A. from the decision of the B.C.S.C. pronounced October 7, 1999 (Vancouver Registry CA026478). Hearing dates not set. Subject matter: Section 12 complaint.

5. ***Elkview Coal Corp. v. United Steelworkers of America, Local Union No. 9346, Labour Relations Board of B.C., and Dalton Larson*** — Judicial Review of Arbitration Award and BCLRB Nos. B423/98 and B202/99 (Vancouver Registry A991562). Matter to be heard January 27, 2000. Subject matter: arbitral jurisdiction (same sex benefits).

6. ***Atmajit Singh Aujla v. British Columbia Labour Relations Board, Industrial Wood and Allied Workers of Canada, Local 1-3567, International Forest Products, and Sauder Industries Limited*** — Judicial Review of BCLRB Nos. B447/97 and B310/98 (Vancouver Registry A991688). Matter to be heard May, 2000. Subject matter: Section 12 complaint.

7. ***Larry Baher v. British Columbia and Yukon Council of Film Unions, and British Columbia Labour Relations Board*** — Judicial Review of BCLRB No. B333/99 (Vancouver Registry A992865). Hearing dates not yet set. Subject matter: Section 12 complaint.

8. ***PCL Constructors Pacific Inc. v. International Union of Operating Engineers, Local 115, and Labour Relations Board of British Columbia*** — Judicial review of BCLRB No. B327/99 (Vancouver Registry A993344). To be heard June 1 and 2, 2000. Subject matter: Arbitrator's jurisdiction to order restitution of wage overpayment.

9. ***Juan Antonio Blanco-Arriba v. Her Majesty the Queen et al*** (Civil proceeding. Vancouver Registry No. C995195). Matter to be heard April 17, 18, 19, 2000. Subject matter: defamation, etc.

C. Cases Settled or Withdrawn in 1999

1. ***B.C. Government and Service Employees' Union v. The Labour Relations Board of British Columbia, and Government of The Province of British Columbia*** — Judicial review of BCLRB No. B32/99 (Vancouver Registry A991160). Notice of discontinuance filed October 5, 1999.

2. ***Shirley Carriere v. The Labour Relations Board of British Columbia, The Attorney General of British Columbia, Canadian Forest Products Ltd., and Pulp, Paper and Woodworkers of Canada, Local No. 9*** — Judicial review of arbitration award (Vancouver Registry A991829). Consent dismissal order filed December 16, 1999.

3. ***First Run Theatres Inc. v. LRB*** — Judicial review of BCLRB Nos. B468/98, B541/98 (Vancouver Registry A990428). Consent dismissal order filed May 19, 1999.

4. ***C.D. Lee Trucking Ltd. v. Industrial Wood and Allied Workers of Canada (IWA Canada), CLC, Local Union Number 1-424, British Columbia Labour Relations Board, Keith Oleksiuk, in his capacity as Chair of the British Columbia Labour Relations Board appointed under s. 115 of the British Columbia Labour Relations Code, R.S.B.C. 1996, c. 244; Pine Lake Construction Ltd., and R 274 Enterprises Ltd.*** — Board appeal to the B.C.C.A. from the decision of the B.C.S.C. pronounced November 26, 1998 (Vancouver Registry CA025412). Consent order filed February 16, 2000. Remainder of appeal withdrawn as moot.

5. ***Highland Valley Copper v. United Steelworkers of America, Local No. 898, and Labour Relations Board of B.C.*** — Judicial review of BCLRB No. B289/98 (Vancouver Registry A982662). Notice of discontinuance filed February 8, 2000.

6. ***Campbell River/Nootka Community Health Council (Campbell River and District General Hospital) formerly Campbell River & District General Hospital Society and Health Employers Association of British Columbia v. British Columbia Nurses' Union, and Labour Relations Board of British Columbia*** — Judicial Review of BCLRB No. B289/98 (Vancouver Registry A990797). Notice of discontinuance filed February 9, 2000.

V.
Statistical Tables

V. Statistical Tables

Description		Page
Explanatory Notes to Tables		76
Table 1	Applications and Complaints Filed and Disposed of in 1998-1999	78-81
Table 1A	Certification Applications Granted in 1999 Analyzed by Industry	83
Table 1B	Certification Applications Filed and Granted in 1999 Analyzed by Union	85-86
Table 2	Certification Applications Decided in 1999	86
Table 2A	Certification Applications Granted in 1999 by the Size of the Bargaining Unit	87
Table 2B	Certification Applications Granted Between 1990 and 1999 by the Size of the Bargaining Unit	87
Table 3	Applications to Cancel Certifications Disposed of in 1998-1999	89
Table 4	Representation Applications Disposed of in 1999 Resulting in a Vote	90
Table 5	Reconsiderations Disposed of in 1999	91
Table 6	"Success" Rate of Appeals	93
Table 7	Applications Pursuant to Part 5 of the *Labour Relations Code* (Strikes, Lockouts, Picketing, etc.) Disposed of in 1999	95
Table 8	1999 Applications and Complaints Analyzed by Applicant	96
Table 9	Analysis of Mediation Officer Appointments	97
Table 10	Time Required to Process Certain Decisions in 1999	98
Table 11	Officer Assignments in 1999	98
Table 12	Requests for Automatic Certification Pursuant to Section 14 (4) (f) of the *Labour Relations Code* (Previously Section 8 (4) (e) of the *Labour Code* and the *Industrial Relations Act*) as a Result of an Alleged Unfair Labour Practice Violation	99

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Explanatory Notes to Tables

The following tables provide an analysis of the applications filed and disposed of in 1999. In some cases, statistics from 1998 and other years are provided for comparative purposes.

A number of changes have been made over the past few years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for the convenience of users.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 on, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board decided to revert to the pre 1989 method of counting these complaints. The change affects the statistics published as Sections 2, 3 and 4 of the *Industrial Relations Act* and Sections 5, 6, 7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre 1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss. 5, 6, 7 and 9 of the *Labour Relations Code* or ss. 2, 3 and 4 of the *Industrial Relations Act*)	**1995**	**825**	**909**	**26**	**0**	**573**	**192**	**118**	**0**	**449**
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	**899**	**831**	**9**	**0**	**586**	**136**	**100**	**0**	**362**
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	**748**	**676**	**3**	**0**	**440**	**134**	**99**	**0**	**331**
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	**416**	**345**	**0**	**0**	**205**	**108**	**32**	**0**	**176**
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	**346**	**370**	**0**	**0**	**241**	**92**	**37**	**0**	**NP**
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	**386**	**388**	**5**	**0**	**220**	**100**	**63**	**0**	**NP**
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	**209**	**177**	**0**	**0**	**96**	**47**	**34**	**0**	**NP**
	1989 (rev)	123	118	0	0	61	36	21	0	

NP — Not Published

Explanatory Notes to Tables

The following tables provide an analysis of the applications filed and disposed of in 1999. In some cases, statistics from 1998 and other years are provided for comparative purposes.

A number of changes have been made over the past few years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for the convenience of users.

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Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 on, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board decided to revert to the pre 1989 method of counting these complaints. The change affects the statistics published as Sections 2, 3 and 4 of the *Industrial Relations Act* and Sections 5, 6, 7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre 1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss. 5, 6, 7 and 9 of the *Labour Relations Code* or ss. 2, 3 and 4 of the *Industrial Relations Act*)	**1995**	**825**	**909**	**26**	**0**	**573**	**192**	**118**	**0**	**449**
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	**899**	**831**	**9**	**0**	**586**	**136**	**100**	**0**	**362**
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	**748**	**676**	**3**	**0**	**440**	**134**	**99**	**0**	**331**
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	**416**	**345**	**0**	**0**	**205**	**108**	**32**	**0**	**176**
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	**346**	**370**	**0**	**0**	**241**	**92**	**37**	**0**	**NP**
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	**386**	**388**	**5**	**0**	**220**	**100**	**63**	**0**	**NP**
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	**209**	**177**	**0**	**0**	**96**	**47**	**34**	**0**	**NP**
	1989 (rev)	123	118	0	0	61	36	21	0	

NP — Not Published.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each in question. If the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees has been counted as one application.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 has been counted as a separate application.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989. These applications had been processed by the Board/Council since 1974 but had not been registered or counted prior to 1989.

Stay Applications

These applications have been added to applications filed and disposed of in Table 1 for the first time in 1993. They are included in the Miscellaneous category. In previous years, these applications were not counted.

General Notes

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled even in those cases where the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Complaints of Unfair Labour Practices										
Complaints Regarding Internal Union Affairs (s. 10)	1998	37	30	9	0	5	5	11	0	4
	1999	19	24	4	0	6	0	14	0	5
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	1998	59	56	0	0	34	6	16	0	24
	1999	57	53	0	0	33	11	9	0	15
Complaints Regarding Duty of Fair Representation (s. 12)	1998	245	263	140	0	16	4	103[1]	0	17
	1999	230	228	96	0	21	5	106[2]	0	21
Other Unfair Labour Practice Complaints (ss. 5, 6, 7 and 9)[3]	1998	618	564	8	0	404	74	78	0	202
	1999	632	697	8	0	503	114	72	0	272
Religious Exemption (s. 17)	1998	21	24	5	1	0	17	1	0	0
	1999	22	21	3	1	0	16	1	0	0
Certification Applications (ss. 18, 19 and 28)	1998	537[4]	534	4	131	0	348[6]	49	0	454
	1999	523[5]	531	6	111	0	363[7]	51	0	462
Certification Variances (ss. 28 and 142)	1998	438	529	5	52	0	458	14	0	116
	1999	393	401	2	51	0	335	13	0	109
Certification Cancellations[8] (ss. 33 and 142)	1998	162	142	24	15	0	84	19	0	97
	1999	159	168	26	20	0	107	15	0	100

[1] 46 of the 103 dismissed complaints, filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[2] 46 of the 106 dismissed complaints, filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[3] **In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. (See Explanatory Notes for details.) An application submitted under Section 8 was filed and disposed of in 1999 and is included in this category.**

[4] 17,835 employees were included in the 537 certification applications filed in 1998. Six of these applications were filed jointly by more than one union.

[5] 20,867 employees were included in the 523 certification applications filed in 1999. Five of these applications were filed jointly by more than one union.

[6] 9,478 employees were included in the 348 certification applications granted in 1998. (One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.) Nine of the certifications granted involving 726 employees were processed under the 'raid' provisions of the legislation.

[7] 10,730 employees were included in the 363 certifications applications granted in 1999. (One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.) Nine of the certifications granted involving 1,054 employees were processed under the 'raid' provisions of the legislation.

The estimate of employees per application is derived from the estimate on the union application. Variances do occur between the time of application and the time of disposal of the application. In case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

[8] See Table 3.

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Cancellation of a Voluntary Recognition (s. 34)	1998	16	16	2	4	0	6	4	0	8
	1999	4	4	0	0	0	2	2	0	2
Permission to Alter Conditions of Employment (ss. 32 and 45)	1998	8	9	0	5	0	4	0	0	3
	1999	10	9	0	7	0	2	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	1998	81	80	0	0	60	8	12	0	33
	1999	75	84	0	0	60	9	15	0	44
Declaration of Successor Status										
Successor Employer (s. 35)	1998	301	334	1	14	0	312	7	0	20
	1999	112	148	2	21	0	119	6	0	12
Successor Union (s. 37)	1998	99	95	0	16	0	78	1	0	1
	1999	55	111	1	9	0	99	2	0	1
Common Employer (s. 38)	1998	34	43	0	24	0	8	11	0	22
	1999	30	37	1	20	0	8	8	0	13
Accreditation Applications (s. 43)	1998	0	0	0	0	0	0	0	0	0
	1999	0	1	0	0	0	0	1	0	0
Accreditation Variances (ss. 43 and 142)	1998	85	94	0	0	0	91	3	0	0
	1999	46	42	0	2	0	40	0	0	0
Accreditation Cancellations (s. 142)	1998	0	0	0	0	0	0	0	0	0
	1999	0	0	0	0	0	0	0	0	0

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Complaints of Unfair Labour Practices										
Complaints Regarding Internal Union Affairs (s. 10)	**1998**	**37**	**30**	**9**	**0**	**5**	**5**	**11**	**0**	**4**
	1999	19	24	4	0	6	0	14	0	5
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	**1998**	**59**	**56**	**0**	**0**	**34**	**6**	**16**	**0**	**24**
	1999	57	53	0	0	33	11	9	0	15
Complaints Regarding Duty of Fair Representation (s. 12)	**1998**	**245**	**263**	**140**	**0**	**16**	**4**	**103[1]**	**0**	**17**
	1999	230	228	96	0	21	5	106[2]	0	21
Other Unfair Labour Practice Complaints (ss. 5, 6, 7 and 9)[3]	**1998**	**618**	**564**	**8**	**0**	**404**	**74**	**78**	**0**	**202**
	1999	632	697	8	0	503	114	72	0	272
Religious Exemption (s. 17)	**1998**	**21**	**24**	**5**	**1**	**0**	**17**	**1**	**0**	**0**
	1999	22	21	3	1	0	16	1	0	0
Certification Applications (ss. 18, 19 and 28)	**1998**	**537[4]**	**534**	**4**	**131**	**0**	**348[6]**	**49**	**0**	**454**
	1999	523[5]	531	6	111	0	363[7]	51	0	462
Certification Variances (ss. 28 and 142)	**1998**	**438**	**529**	**5**	**52**	**0**	**458**	**14**	**0**	**116**
	1999	393	401	2	51	0	335	13	0	109
Certification Cancellations[8] (ss. 33 and 142)	**1998**	**162**	**142**	**24**	**15**	**0**	**84**	**19**	**0**	**97**
	1999	159	168	26	20	0	107	15	0	100

[1] 46 of the 103 dismissed complaints, filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

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TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
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Cancellation of a Voluntary Recognition (s. 34)	1998	16	16	2	4	0	6	4	0	8
	1999	4	4	0	0	0	2	2	0	2
Permission to Alter Conditions of Employment (ss. 32 and 45)	1998	8	9	0	5	0	4	0	0	3
	1999	10	9	0	7	0	2	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	1998	81	80	0	0	60	8	12	0	33
	1999	75	84	0	0	60	9	15	0	44
Declaration of Successor Status										
Successor Employer (s. 35)	1998	301	334	1	14	0	312	7	0	20
	1999	112	148	2	21	0	119	6	0	12
Successor Union (s. 37)	1998	99	95	0	16	0	78	1	0	1
	1999	55	111	1	9	0	99	2	0	1
Common Employer (s. 38)	1998	34	43	0	24	0	8	11	0	22
	1999	30	37	1	20	0	8	8	0	13
Accreditation Applications (s. 43)	1998	0	0	0	0	0	0	0	0	0
	1999	0	1	0	0	0	0	1	0	0
Accreditation Variances (ss. 43 and 142)	1998	85	94	0	0	0	91	3	0	0
	1999	46	42	0	2	0	40	0	0	0
Accreditation Cancellations (s. 142)	1998	0	0	0	0	0	0	0	0	0
	1999	0	0	0	0	0	0	0	0	0

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Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Alleged Failure to Execute or Comply With a Collective Agreement (s. 49)	**1998**	**13**	**16**	**0**	**0**	**8**	**4**	**4**	**0**	**7**
	1999	17	13	1	0	8	2	2	0	3
First Collective Agreement (s. 55)	**1998**	**33**	**33**	**0**	**0**	**18**	**0**	**0**	**15[1]**	**0**
	1999	25	24	0	0	9	0	0	15[2]	0
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57 to 70)	**1998**	**128**	**127**	**0**	**0**	**68**	**37**	**22**	**0**	**57**
	1999	139	118	0	0	67	33	18	0	41
Replacement Workers (s. 68)	**1998**	**27**	**26**	**0**	**0**	**16**	**7**	**3**	**0**	**12**
	1999	22	19	0	0	11	7	1	0	8
Essential Service Designations (s. 72)	**1998**	**557**	**543**	**0**	**0**	**5**	**538**	**0**	**0**	**0**
	1999	51	66	0	0	4	62	0	0	18
Last Offer Vote (s. 78)	**1998**	**30**	**31**	**0**	**1**	**0**	**30[3]**	**0**	**0**	**1**
	1999	29	29	0	0	0	29[4]	0	0	1
Review of Arbitration Award (s. 99)	**1998**	**52**	**65**	**1**	**9**	**0**	**13**	**42**	**0**	**20**
	1999	59	54	0	11	0	7	36	0	11
Interim Order (s. 133)	**1998**	**12**	**10**	**1**	**5**	**0**	**1**	**3**	**0**	**3**
	1999	23	22	0	11	0	5	6	0	8
File an Order in Supreme Court (s. 135)	**1998**	**48**	**50**	**0**	**16**	**0**	**32**	**2**	**0**	**0**
	1999	63	56	0	24	0	31	1	0	0

[1] For one case, the application was withdrawn prior to settlement. For two cases, the dispute was referred to binding arbitration. For six cases, the parties were allowed to exercise their right to strike or lockout. In six cases, the union was decertified.

[2] For seven cases, the dispute was referred to binding arbitration. For seven cases, the parties were allowed to exercise their right to strike or lockout. In one case, the mediator reported out.

[3] In 21 cases, the employees voted to reject the offer. In six cases, the employees voted to accept the offer. In two case, the employer withdrew the application before the vote was held. In one case, the parties settled before the vote was held.

[4] In 21 cases, the employees voted to reject the offer. In six cases, the employees voted to accept the offer. In one case, the employer withdrew the application before the vote was held. In one case, the parties settled before the vote was held.

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	**1998**	**81**	**107**	**4**	**63**	**0**	**0**	**0**	**40[1]**	**39**
	1999	86	125	4	83	0	0	0	38[1]	37
Reconsideration of a Decision (s. 141)	**1998**	**142**	**134**	**0**	**20**	**0**	**11**	**103[2]**	**0**	**20**
	1999	138	150	0	9	0	22	119[3]	0	9
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation) (s. 143)	**1998**	**14**	**17**	**1**	**4**	**0**	**5**	**7**	**0**	**9**
	1999	13	15	1	9	0	3	2	0	5
Miscellaneous	**1998**	**103[4]**	**124[6]**	**1**	**29**	**36**	**34**	**24**	**0**	**29**
	1999	125[5]	115[7]	9	11	39	34	22	0	27
TOTAL	**1998**	**3,981**	**4,096**	**208**	**410**	**670**	**2,214**	**539**	**55**	**1,198[8]**
	1999	3,158	3,365	164	400	761	1,465	522	53	1,227[9]

[1] Ruling Made.
[2] For 94 of the 103 applications dismissed, leave to apply was denied.
[3] For 98 of the 119 applications dismissed, leave to apply was denied. See Table 5.
[4] Includes nine stay applications.
[5] Includes 12 stay applications.
[6] Includes 11 stay applications; seven of which were dismissed, two of which were granted, and two of which were withdrawn.
[7] Includes eight stay applications; six of which were dismissed, and two of which were granted.
[8] 1,198 applications disposed of in 1998 were heard some time during the process. In 1998, the Board held 856 hearings (including 663 expedited hearings to deal with certification and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 1998.
[9] 1,227 applications disposed of in 1999 were heard some time during the process. In 1999, the Board held 836 hearings (including 639 expedited hearings to deal with certification and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 1999.

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Alleged Failure to Execute or Comply With a Collective Agreement (s. 49)	**1998**	**13**	**16**	**0**	**0**	**8**	**4**	**4**	**0**	**7**
	1999	17	13	1	0	8	2	2	0	3
First Collective Agreement (s. 55)	**1998**	**33**	**33**	**0**	**0**	**18**	**0**	**0**	**15[1]**	**0**
	1999	25	24	0	0	9	0	0	15[2]	0
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57 to 70)	**1998**	**128**	**127**	**0**	**0**	**68**	**37**	**22**	**0**	**57**
	1999	139	118	0	0	67	33	18	0	41
Replacement Workers (s. 68)	**1998**	**27**	**26**	**0**	**0**	**16**	**7**	**3**	**0**	**12**
	1999	22	19	0	0	11	7	1	0	8
Essential Service Designations (s. 72)	**1998**	**557**	**543**	**0**	**0**	**5**	**538**	**0**	**0**	**0**
	1999	51	66	0	0	4	62	0	0	18
Last Offer Vote (s. 78)	**1998**	**30**	**31**	**0**	**1**	**0**	**30[3]**	**0**	**0**	**1**
	1999	29	29	0	0	0	29[4]	0	0	1
Review of Arbitration Award (s. 99)	**1998**	**52**	**65**	**1**	**9**	**0**	**13**	**42**	**0**	**20**
	1999	59	54	0	11	0	7	36	0	11
Interim Order (s. 133)	**1998**	**12**	**10**	**1**	**5**	**0**	**1**	**3**	**0**	**3**
	1999	23	22	0	11	0	5	6	0	8
File an Order in Supreme Court (s. 135)	**1998**	**48**	**50**	**0**	**16**	**0**	**32**	**2**	**0**	**0**
	1999	63	56	0	24	0	31	1	0	0

[1] For one case, the application was withdrawn prior to settlement. For two cases, the dispute was referred to binding arbitration. For six cases, the parties were allowed to exercise their right to strike or lockout. In six cases, the union was decertified.

[2] For seven cases, the dispute was referred to binding arbitration. For seven cases, the parties were allowed to exercise their right to strike or lockout. In one case, the mediator reported out.

[3] In 21 cases, the employees voted to reject the offer. In six cases, the employees voted to accept the offer. In two case, the employer withdrew the application before the vote was held. In one case, the parties settled before the vote was held.

[4] In 21 cases, the employees voted to reject the offer. In six cases, the employees voted to accept the offer. In one case, the employer withdrew the application before the vote was held. In one case, the parties settled before the vote was held.

TABLE 1

Applications and Complaints Filed and Disposed of in 1998-1999 — *Continued*

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	**1998**	**81**	**107**	**4**	**63**	**0**	**0**	**0**	**40**[1]	**39**
	1999	86	125	4	83	0	0	0	38[1]	37
Reconsideration of a Decision (s. 141)	**1998**	**142**	**134**	**0**	**20**	**0**	**11**	**103**[2]	**0**	**20**
	1999	138	150	0	9	0	22	119[3]	0	9
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation) (s. 143)	**1998**	**14**	**17**	**1**	**4**	**0**	**5**	**7**	**0**	**9**
	1999	13	15	1	9	0	3	2	0	5
Miscellaneous	**1998**	**103**[4]	**124**[6]	**1**	**29**	**36**	**34**	**24**	**0**	**29**
	1999	125[5]	115[7]	9	11	39	34	22	0	27
TOTAL	**1998**	**3,981**	**4,096**	**208**	**410**	**670**	**2,214**	**539**	**55**	**1,198**[8]
	1999	**3,158**	**3,365**	**164**	**400**	**761**	**1,465**	**522**	**53**	**1,227**[9]

[1] Ruling Made.
[2] For 94 of the 103 applications dismissed, leave to apply was denied.
[3] For 98 of the 119 applications dismissed, leave to apply was denied. See Table 5.
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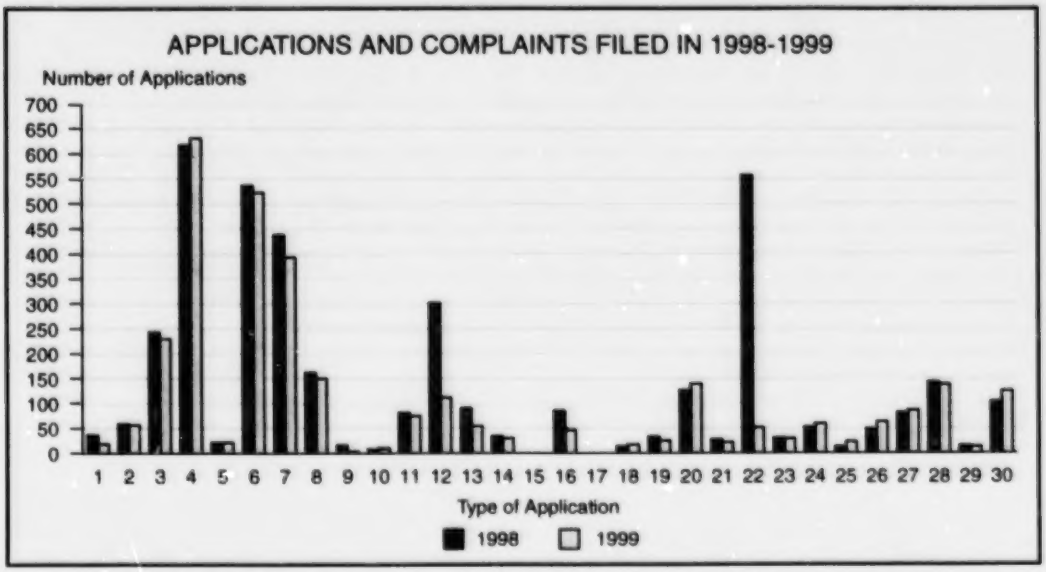


1. Complaints Regarding Internal Union Affairs (s.10)
2. Complaints Regarding Duty to Bargain in Good Faith (s.11)
3. Complaints Regarding Duty of Fair Representation (s.12)
4. Other Unfair Labour Practice Complaints (ss. 5, 6, 7, 9)
5. Religious Exemptions (s.17)
6. Certification Applications (ss. 18, 19, 28)
7. Certification Variances (ss. 28,142)
8. Certification Cancellations (ss. 33,142)
9. Cancellation of a Voluntary Recognition (s. 34)
10. Permission to Alter Conditions of Employment (ss. 32, 45)
11. Alleged Unlawful Alteration of Employment (ss. 32, 45)
12. Successor Employer (s. 35)
13. Successor Trade Union (s. 37)
14. Common Employer (s. 38)
15. Accreditation Applications (s. 43)*
16. Accreditation Variances (ss. 43, 142)
17. Accreditation Cancellations (s. 142)*
18. Alleged Failure to Execute/Comply with a Collective Agreement
19. First Collective Agreement (s. 55)
20. Part 5 Applications (22. 57 to 70)
21. Replacement Workers (s. 68)
22. Essential Service Designations (s. 72)
23. Last Offer Vote (s. 78)
24. Review of Arbitration Award (s. 99)
25. Interim Order (s. 133)
26. File an Order in Supreme Court (s. 135)
27. S. 139
28. Reconsideration of a Decision (s. 141)
29. Declaratory Opinion (s. 143)
30. Miscellaneous

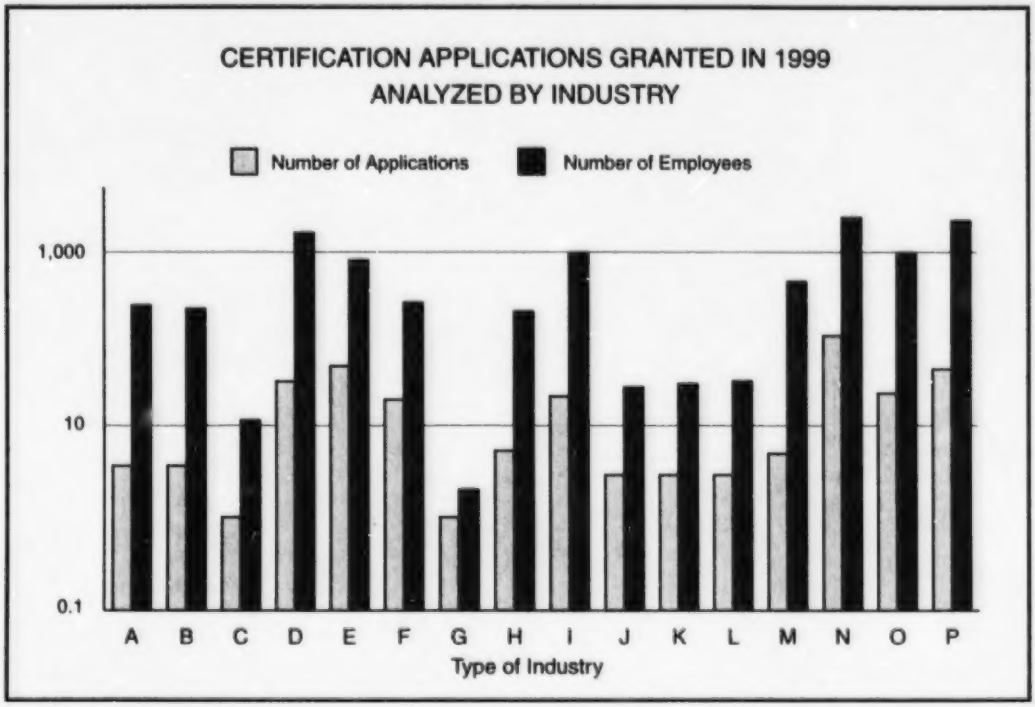
* No applications were filed for both 1998 and 1999

TABLE 1A

Certification Applications Granted in 1999 Analyzed by Industry

Type of Industry	Number of Certification Applications Granted	Number of Employees
Agricultural and Related Services	4	265
Logging and Forestry	4	237
Mining (including Milling), Quarrying and Oil Wells	1	12
Manufacturing	35	1,679
Construction	54	751
Transportation and Storage	22	288
Communications and other Utilities	1	2
Wholesale Trade	6	222
Retail Trade	24	933
Finance and Insurance	3	30
Business Services	3	31
Government Services	3	33
Educational Services	6	467
Health and Social Services	117	2,512
Accommodation, Food and Beverage Services	27	894
Other Services	53[1]	2,374
TOTAL	**363[1]**	**10,730**

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.


CERTIFICATION APPLICATIONS GRANTED IN 1999
ANALYZED BY INDUSTRY
Number of Applications
Number of Employees
1,000
10
0.1
A B C D E F G H I J K L M N O P
Type of Industry

A. Agricultural and Related Services
B. Logging and Forestry
C. Mining (including Milling), Quarrying and Oil Wells
D. Manufacturing
E. Construction
F. Transportation and Storage
G. Communications and Other Utilities
H. Wholesale Trade
I. Retail Trade
J. Finance and Insurance
K. Business Services
L. Government Services
M. Educational Services
N. Health and Social Services
O. Accommodation, Food and Beverage Services
P. Other Services

TABLE 1B

Certification Applications Filed and Granted in 1999 Analyzed by Union

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	Number of Certification Applications Filed	Number of Certification Applications Granted
Boilermakers	1	1
Building Trades Council (BCBCBTU)	1	0
Carpenters	6	7
CLAC	18	17
CISIWU	5	1
Electrical Workers (IBEW)	15	10
Glaziers & Glass Workers	4	3
Iron Workers	6	4
Labourers	3	3
Machinists & Aerospace Workers	11	6
Operating Engineers (IUOE)	10	7
Painters (not including Glaziers 1527)	7	3
Refrigeration Workers	26	23
United Workers' Association	2	0
CEP	4	3
Canadian Translators and Interpreters Guild (CWA)	1	0
IWA	70	47
Canadian Union of Transportation Employees (CUTE)	1	0
Locomotive Engineers	1	0
Longshore (IWLU)	2	2
Marine Workers	2	0
Owner-Operator Workers (COOWA)	10	2
Professional Associated Limousine Services Association	1	0
Seafarers	1	0
Teamsters	24	17
Transit Union (ICTU)	2	1
United Transportation Union (UTU)	1	0
Film Craftspeople (ACFC-CEP)	16	15
Theatrical Stage Employees *et al* (IATSE)	3	3
Musicians	1	0
Service Employees (SEIU)	2	3
Service Workers	1	1
Hotel Employees	19	16
Health Sciences Association (HSA)	16	10
Hospital Employees Union (HEU)	38	27
Nurses (BCNU)	29	23
Firefighters	1	1
Telecommunications Workers (TWU)	1	1
CAW	31	19
Steelworkers	0	5

(continued)

TABLE 1B

Certification Applications Filed and Granted in 1999 Analyzed by Union — *Continued*

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	Number of Certification Applications Filed	Number of Certification Applications Granted
Garment Workers	2	2
Brewery Workers	2	1
Fishers (UFAWU-CAW)	7	0
Food & Commercial Workers (UFCW)	14	9
Retail Wholesale Union (RWU)	1	1
CUPE	20	15
British Columbia Medical Association	1	0
OPEIU/OTEU	14	4
BCGEU	69	52
Single Employer Independent Union	5	3
TOTAL	**528**[1]	**368**[1]

[1] Adding the individual numbers in the column produces a larger number because some applications were filed jointly by more than one union.

TABLE 2

Certification Applications Decided in 1999

Applications	Granted	Dismissed	Total
Unorganized Employees	354[1]	33	387
Organized Employees	9	8	17
TOTAL	**363**[1]	**41**	**404**

Number of Employees	Granted	Dismissed	Total
Unorganized Employees	9,676	1,436	11,112
Organized Employees	1,054	791	1,845
TOTAL	**10,730**	**2,227**	**12,957**

[1] Two individual certifications were issued after a single certification application was granted; thus the number of new certifications involving unorganized employees amounts to 355 bringing up the total of certifications granted in 1999 to 364.

TABLE 2A

Certification Applications Granted in 1999 by the Size of the Bargaining Unit

Number of Employees	Number of Certification Applications	Percentage of Certification Applications	Cumulative Percentage
1 to 10	161	44.3%	44.3%
11 to 20	78	21.5%	65.8%
21 to 30	32	8.8%	74.6%
31 to 40	23	6.3%	80.9%
41 to 50	10	2.8%	83.7%
51 to 60	10	2.8%	86.5%
61 to 70	13	3.6%	90.1%
71 to 80	9	2.5%	92.6%
81 to 90	4	1.1%	93.7%
91 to 100	4	1.1%	94.8%
101 to 200	13	3.6%	98.4%
Over 200	6	1.6%	100.0%
TOTAL	363[1]		

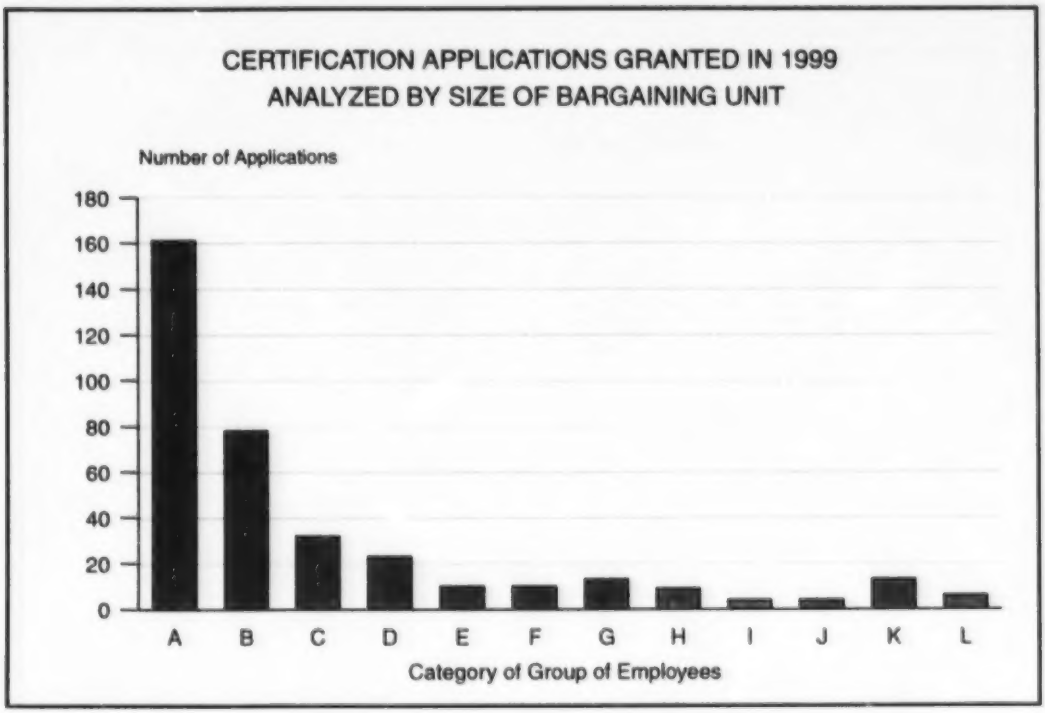
TABLE 2B

Certification Applications Granted Between 1990 and 1999 by the Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						Total
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[2]
1999	239	65.8%	65	17.9%	59	16.3%	363[1]

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.



NUMBER OF EMPLOYEES GROUPED BY CATEGORY

A. 1 to 10	D. 31 to 40	H. 61 to 70	K. 91 to 100
B. 11 to 20	E. 41 to 50	I. 71 to 80	L. 101 to 200
C. 21 to 30	F. 51 to 60	J. 81 to 90	

TABLE 3

Applications to Cancel Certifications Disposed of in 1998-1999

	Number of Applications	
	1998	1999
Filed by Employee(s) —		
Granted	73	74
Dismissed	15	15
Not Proceeded With	24	26
Withdrawn	15[1]	16
TOTAL	**127**	**131**
Filed by Employer —		
Granted	7	26
Dismissed	3	0
Not Proceeded With	0	0
Withdrawn	0	4
TOTAL	**10**	**30**
Filed by Union —		
Granted	4	7
Dismissed	1	0
Withdrawn	0	0
TOTAL	**5**	**7**
Summary —		
Granted	84	107
Dismissed	19	15
Not Proceeded With	24	26
Withdrawn	15	20
TOTAL	**142**	**168**

[1] One Section 33 (11) application was filed by a representative of certain employees.

TABLE 4

Representation Applications Disposed of in 1999 Resulting in a Vote

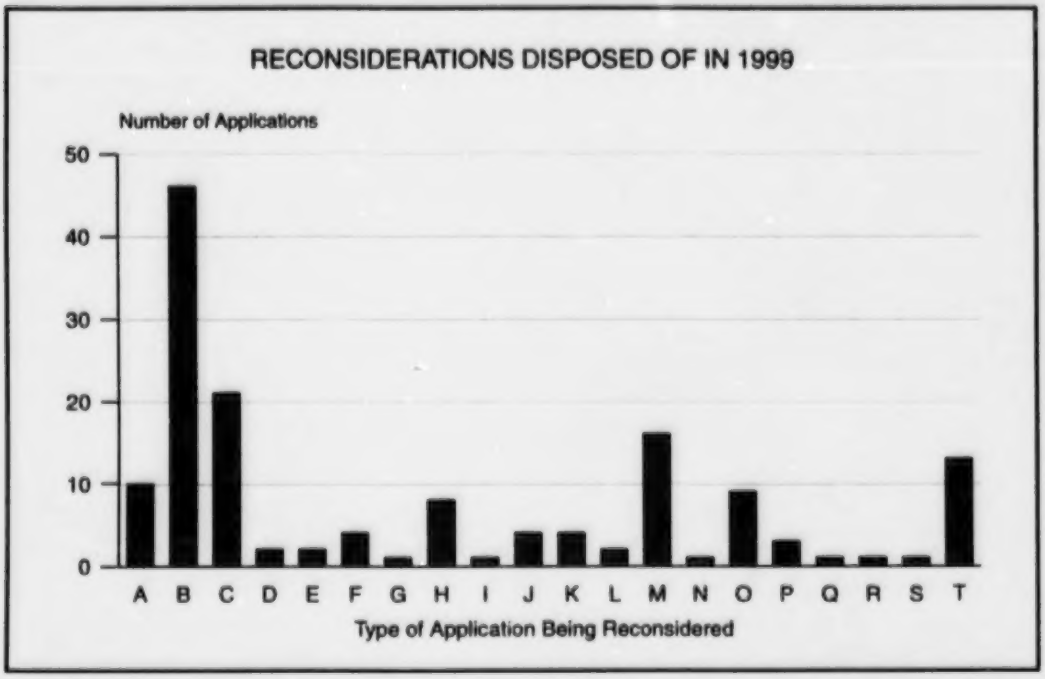
Type of Application	Number of Applications	Number of Successful Applications	Percentage Successful	Total Number of Eligible Voters
Certification — a vote for or against one union or between two unions applying for the same unit	37	17	45.9%	1,392
Certification — a vote between an applicant and an incumbent union	15	9	60%	1,806
Expansion of a bargaining unit	4	0	0%	322
Decertification	85	74	87%	2,033
Partial decertification	2	2	100%	116
Cancellation of a voluntarily recognized collective agreement	1	1	100%	1
Successor employer declaration	2	1	50%	70
Successor union declaration	1	0	0%	2,364
Appeal of certification	2	2	100%	162
TOTAL	**149**	**106**	**71.1%**	**8,266**

TABLE 5

Reconsiderations Disposed of in 1999

Type of Application being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Total
Unfair labour practice adjudication excluding duty of fair representation	6	2	1	1	10
Duty of fair representation adjudication	37	3	5	1	46
Certification	7	4	7	3	21
Variance of certification	1	1	0	0	2
Cancellation of certification	1	0	1	0	2
Partial decertification	0	3	1	0	4
Cancellation of a collective agreement	1	0	0	0	1
Declaration of employer successor status	7	0	1	0	8
Declaration of trade union successor status	1	0	0	0	1
Ruling re: common employers	2	0	0	2	4
Ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	2	1	0	1	4
Ruling re: replacement workers	2	0	0	0	2
Ruling re: review of arbitration award	13	1	2	0	16
Ruling re: appeal of review of arbitration award	1	0	0	0	1
Ruling re: interpretation of the legislation as it applies to the collective bargaining relationship	5	2	1	1	9
Ruling re: remedy	3	0	0	0	3
Ruling re: alleged unlawful alteration of employment	0	1	0	0	1
Ruling re: essential service designations	1	0	0	0	1
Ruling re: first contract mediation	1	0	0	0	1
Ruling re: procedure	7	3	3	0	13
TOTAL	**98**	**21**	**22**	**9**	**150**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Total
Employer(s)	21	8	6	1	36
Union(s)	31	4	8	7	50
Employee(s)	46	9	8	1	64
TOTAL	**98**	**21**	**22**	**9**	**150**

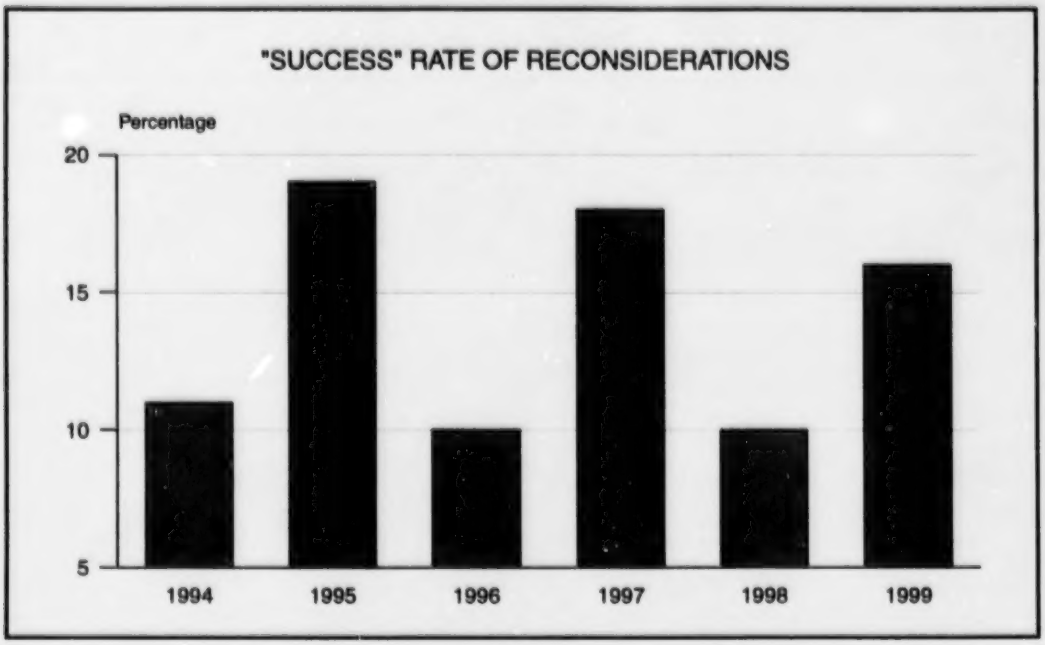


A. Unfair Labour Practice Adjudication Excluding Duty of Fair Representation
B. Duty of Fair Representation Adjudication
C. Certification
D. Variance of Certification
E. Cancellation of a Certification
F. Partial Decertification
G. Cancellation of a Collective Agreement
H. Declaration of Employer Successor Status
I. Declaration of Trade Union Successor Status
J. Ruling re: Common Employers
K. Ruling Pertaining to Alleged Illegal Strikes, Lockouts, Picketing, etc.
L. Ruling re: Replacement Workers
M. Ruling re: Review of Arbitration Award
N. Ruling re: Appeal of Review of Arbitration Award
O. Ruling re: S. 139
P. Ruling re: Remedy
Q. Ruling re: Alleged Unlawful Alteration of Employment
R. Ruling re: Essential Service Designations
S. Ruling re: First Contract Mediation
T. Ruling re: Procedure

TABLE 6

"Success" Rate of Reconsiderations

	1994	1995	1996	1997	1998	1999
Total Applications Disposed of	143	131	87	113	134	150
Number of Applications Withdrawn	24	16	7	21	20	9
Number of Applications Processed to a Final Decision	119	115	80	92	114	141
Number of Applications Resulting in a Revision of the Original Decision	13	22	8	17	11	22
"Success" Rate of Reconsiderations	11%	19%	10%	18%	10%	16%


"SUCCESS" RATE OF RECONSIDERATIONS
Percentage
20
15
10
5
1994
1995
1996
1997
1998
1999

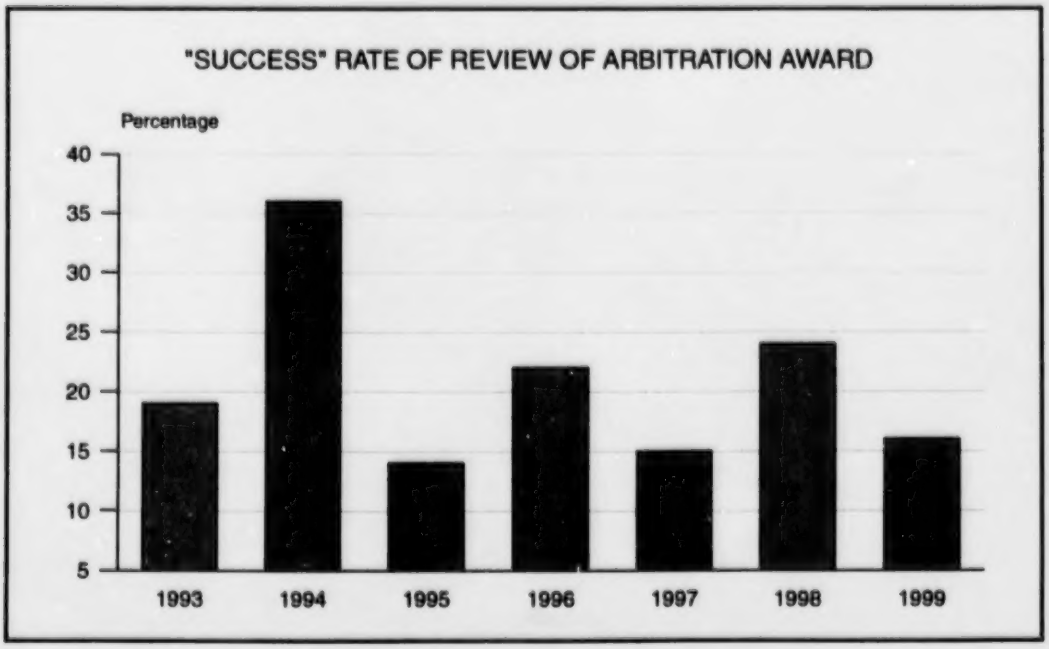

"SUCCESS" RATE OF REVIEW OF ARBITRATION AWARD
Percentage
40
35
30
25
20
15
10
5
1993
1994
1995
1996
1997
1998
1999

TABLE 7

Applications Pursuant to Part 5 of the *Labour Relations Code* (Strikes, Lockouts, Picketing, etc.) Disposed of in 1999

Type of Application	Number of Applications	At a Formal Hearing	In a Formal Decision
A. Dispute Settled			
1. re: alleged illegal lockout	3	0	0
2. re: alleged illegal strike or a challenged strike vote	27	2	1
3. re: picketing (employer complaint)	28	0	0
4. re: picketing (trade union application for a declaratory opinion)	4	0	0
5. re: continuation of benefits	0	0	0
6. re: activity affecting business, etc.	5	0	0
Sub-Total	67	2	1
B. Dispute disposed of by an adjudication that:			
(a) a violation had occurred or would occur or that a specific activity should be restricted, or			
(b) that certain proposed picketing be allowed			
1. re: alleged illegal lockout	0	0	0
2. re: alleged illegal strike or a challenged strike vote	10	7	5
3. re: picketing (employer complaint)	23	14	8
4. re: picketing (trade union application for a declaratory opinion)	0	0	0
5. re: activity affecting business, etc.	0	0	0
Sub-Total	33	21	13
C. Dispute disposed of:			
(a) by an adjudication that **no** violation had occurred or would occur or that a specific activity should **not** be restricted, or			
(b) by a refusal to rule on the proceedings			
1. re: alleged illegal lockout	8	8	8
2. re: alleged illegal strike or a challenged strike vote	5	5	5
3. re: picketing (employer complaint)	2	2	2
4. re: picketing (trade union application for a declaratory opinion)	3	3	3
5. re: activity affecting business, etc.	0	0	0
Sub-Total	18	18	18
TOTAL	**118**	**41**	**32**

NOTE: The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8

1999 Applications and Complaints Analyzed by Applicant

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs	0	3	16	0	19
Complaints Regarding Duty to Bargain in Good Faith	9	49	0	0	57
Complaints Regarding Duty of Fair Representation	1	0	229	0	230
Other Unfair Labour Practice Complaints	29	583	21	0	632
Religious Exemption	0	0	22	0	22
Certification Applications	0	523	0	0	523
Certification Variances	89	303	5	1	393
Certification Cancellations	12	9	139	0	159
Cancellation of a Voluntary Recognition	1	0	3	0	4
Permission to Alter Conditions of Employment	9	1	0	0	10
Alleged Unlawful Alteration of Employment Terms and Conditions	1	74	0	0	75
Declaration of Successor Status					
Successor Employer	36	78	0	0	112
Successor Union	0	55	0	0	55
Common Employer	1	28	1	0	30
Accreditation Applications	0	0	0	0	0
Accreditation Variances	45	1	0	0	46
Accreditation Cancellations	0	0	0	0	0
Alleged Failure to Execute or Comply with Collective Agreement	5	11	1	0	17
First Collective Agreement	8	17	0	0	25
Part 5 Applications (Strikes, Lockouts, Picketing, etc.)	116	22	1	0	139
Replacement Workers	1	21	0	0	22
Essential Service Designations	0	0	0	51	51
Last Offer Vote	29	0	0	0	29
Review of Arbitration Award	22	24	14	0	59
Interim Order	14	9	0	0	23
File Order in Supreme Court	36	21	5	1	63
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	16	68	0	2	86
Reconsideration of a Decision	31	50	57	0	138
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	4	9	0	0	13
Miscellaneous	47	69	8	1	125
TOTAL	**562**	**2,028**	**522**	**57**	**3,158[1]**

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 9

Analysis of Mediation Officer Appointments

Activity	
Appointments continued from previous year	34
Appointments made — January 1–December 31, 1999 (Section 74)	181
Appointments made — January 1–December 31, 1999 (Section 55)	25
TOTAL	**240**
Disposition of Appointments	
Mediated settlement	186
Mediator reported out, dispute still not settled	15
Appointments continuing	39
Other (plant closure, decertification, etc.)	0
TOTAL	**240**

TABLE 10

Time Required to Process Certain Decisions in 1999

Type of Application	Number of Decisions[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S. 6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	130	98	56
Complaints Regarding Duty of Fair Representation	132	261	183.5
Certification	525	33	8
Cancellation of Certification Under Section 33 (2) of the *Labour Relations Code*	105	26	11
Declaration of Successor Employer	146	122	64
Common Employer	36	266	215
Review of Arbitration Award	54	236	136
Reconsideration of Decision	150	172	100.5

[1] Excludes applications not proceeded with because applicant did not file sufficient information.

TABLE 11

Officer Assignments in 1999

	TYPE OF APPLICATION			
	Part 5[1]	Unfair Labour Practice[2]	Certification and Expanded Bargaining Unit	Other	Total
Settled/Withdrawn	37	129	0	64	230
Resolved Issues/Assisted at Hearing	0	0	151	0	151
Narrowed Issues/Assisted at Hearing	14	54	90	41	199
To Adjudication (no informal)	0	1	0	4	5
Report of Investigation	0	0	1	10	11
Other	7	4	4	3	18
TOTAL	**58**	**188**	**246**	**122**	**614**

[1] Includes strikes, lockouts, picketing, etc.
[2] Excluding duty of fair representation.

TABLE 12

Requests for Automatic Certification Pursuant to Section 14 (4) (f) of the *Labour Relations Code* (Previously Section 8 (4) (e) of the *Labour Code* and the *Industrial Relations Act*) as a Result of an Alleged Unfair Labour Practice Violation

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
TOTAL	**599**	**32**

Note: Figures for 1977 to 1992 are from the Board's Annual Reports. Figures for 1993 to 1995 were not included in the Annual Reports for these years.

These requests are included under *Other Unfair Labour Practice Complaints* (not under Applications for Certification).

APPENDIX OF LEGISLATIVE REFERENCE TABLES

TABLE A

Statutory History of the *Labour Relations Code*

Statute	Date and Manner of Coming Into Force	Sections in Force	B.C. Gazette References
Labour Code Amendment Act, 1982, S.B.C. 1982, c. 59	August 4, 1982 Proclamation		Reg. 354/82, Pt. II, V. 25, p. 564
Regulations Act, S.B.C. 1983, c. 10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21 (2), 29 (1) (a), (b), 29 (2), 35 (c), 42 (2), 59 (2), 60 (c), 61 (2), 73 (1) (a), 75, 81 (5) (a), (6), [illegible] (1), 154	Reg. 393/83, Pt. II, V. 26, p. 607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c. 24	June 8, 1984 Regulation	1–19 except 13	Reg. 167/84, Pt. II, V. 27, p. 221.
	August 27, 1984 Regulation	13	Reg. 274/84, Pt. II, V. 27, p. 358
Commercial Arbitration Act, S.B.C. 1986, c. 3	July 4, 1986	47 repeals 99 (4)	Reg. 148/96
Industrial Relations Reform Act, 1987, S.B.C. 1987, c. 24	July 27, 1987 Regulation	The whole Act except S. 2 (e) and that part of S. 60 that enacts S. 137.97 to S. 137.99	Reg. 246/87
Miscellaneous Statutes Amendment Act (No. 5), 1987, S.B.C. 1987, c. 60	December 17, 1987 Royal Assent	9 amends 26 (2)	
Budget Measures Implementation Act, 1989, S.B.C. 1989, c. 1	Retroactive to April 1, 1988	5 amends 123.1	
Labour Relations Code, S.B.C. 1992, c. 84	January 18, 1993 Regulation	Act except S. 53, 54, 83, 86, 104, 105 *Industrial Relations Act*, R.S.B.C. 1979, C. 212 except S. 74–78, 95, 96 Repealed.	Reg. 6/93
	May 1, 1998 Regulation	S. 53, 54	Reg. 6/93

TABLE A

Statutory History of the *Labour Relations Code* — *Continued*

Statute	Date and Manner of Coming Into Force	Sections in Force	B.C. Gazette References
Labour Relations Code, S.B.C. 1992, c. 84	July 15, 1994	S. 83, 86, 87, 104, 105 *Industrial Relations Act*, R.S.B.C. 1979, c. 212, S. 95, 96 Repealed	Reg. 247/94
Labour Relations Code, S.B.C. 1992, c. 84	July 15, 1994	S. 105 (10) Transitional	Reg. 248/94
Miscellaneous Statutes Amendment Act (No. 2) 1995, S.B.C. 1995, c. 12	June 8, 1995 Royal Assent	10 Amends S. 105 (10)	
Employment Standards Act, S.B.C. 1995, c. 38	November 1, 1995 Regulation	132 Amends S. 54 (3) of the *Labour Relations Code*	Reg. 396/95
Human Rights Amendment Act, 1995, S.B.C. 1995, c. 42	October 1, 1996	8 amends S. 31 (b) of the *Labour Relations Code*	Reg. 87/96
Statute Revision Act [Section 5 (1)]	April 21, 1997 Order in Council	*Labour Relations Code* sub-sections re-numbered	Reg. 92/97
Labour Relations Code Amendment Act, 1998, S.B.C. 1998, c. 33 [Bill 26]	July 30, 1998 Royal Assent	*Labour Relations Code* R.S.B.C. 1996, c. 244, S. 21 (1) Also, newly added to the *Labour Relations Code*, Part 4.1 Construction Industry Labour Relations	Reg. 274/98
Miscellaneous Statutes Amendment Act (No. 3), 1999, S.B.C. 1999, c. 39 [Bill 97, 1999]	July 15, 1999 Royal Assent	Sections in force: 8 amends S. 37 (1) of the *Labour Relations Code*	

TABLE B

Statutes Referencing the *Labour Relations Code*

Statute	Sections
Access to Abortion Services Act, R.S.B.C. 1996, c. 1	16
Assessment Authority Act, R.S.B.C. 1996, c. 21	14
British Columbia Transit Act, R.S.B.C. 1996, c. 38	7
College and Institute Act, R.S.B.C. 1996, c. 52	1, 43, 45, 48 (3), (4), (5), (7)
Correction Act, R.S.B.C. 1996, c. 74	16 (2)
Emergency Communications Corporations Act, S.B.C. 1997, c. 47	11 (1), (2)
Employment Standards Act, R.S.B.C. 1996, c. 113	1, 22 (1) (a), 87 (2), 105 (3)
Fire and Police Services Collective Bargaining Act, R.S.B.C. 1996, c. 142	1, 2
Fishing Collective Bargaining Act, R.S.B.C. 1996, c. 150	1, 3
Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165	Schedule 2
Greater Vancouver Transportation Authority Act, S.B.C. 1998, c. 30	12 (2), 13 (1), 37 (8) (a), (9)
Health Authorities Act, R.S.B.C. 1996, c. 180	1, 19.2
Human Rights Code, R.S.B.C. 1996, c. 210	1
Hydro and Power Authority Act, R.S.B.C. 1996, c. 212	32 (7) (q)
Hydro and Power Authority Privatization Act, R.S.B.C. 1996, c. 213	15 (3), (4)
Institute of Technology Act, R.S.B.C. 1996, c. 225	1, 21
Job Protection Act, R.S.B.C. 1996, c. 240	5 (2)
Labour Relations Code, R.S.B.C. 1996, c. 244	Refer Table A
Labour Relations Code Amendment Act, S.B.C. 1998, c. 33	Refer Table A
Local Government Statutes Amendment Act, S.B.C. 1998, c. 34	200 (1) (b), 203
Members' Conflict of Interest Act, R.S.B.C. 1996, c. 287	14 (9)
Mines Act, R.S.B.C. 1996, c. 293	1
Municipal Act, R.S.B.C. 1996, c. 323	200 (1) (b), 203
Pension Benefits Standards Act, R.S.B.C. 1996, c. 352	1 (i)
Police Act, R.S.B.C. 1996, c. 367	26 (3), 35 (3), 65 (1) (b)
Public Education Collective Agreement Act, S.B.C. 1998, c. 41	2 (4)
Public Education Labour Relations Act, R.S.B.C. 1996, c. 382	3 (1), 6 (2), 7 (6), 10 (3)
Public Sector Employers Act, R.S.B.C. 1996, c. 384	7 (3), 10, 11, 12, 13, 14
Public Service Labour Relations Act, R.S.B.C. 1996, c. 388	1, 2 (1), 23
Regulatory Streamlining Miscellaneous Statutes Amendment Act, S.B.C. 1998, c. 42	21
Residential Tenancy Act, R.S.B.C. 1996, c. 406	51 (3)
School Act, R.S.B.C. 1996, c. 412	20 (2), 29, 117 (1) (e)
System Act, R.S.B.C. 1996, c. 446	18 (1), (2), (3)
Vancouver Charter, S.B.C. 1953, c. 55	175A
Workers Compensation Act, R.S.B.C. 1996, c. 492	72 (5) (a), 74 (2), 86 (7), 93 (5), 106

TABLE C

Rules and Regulations Under the *Labour Relations Code*

Effective Date	Regulation / Rule	Reference
January 14, 1993	Labour Relations Regulation[1]	Reg. 7/93; O.C. 28/93
January 18, 1993	Labour Relations Board Rules[2]	Ministerial Order MN 4; O.C. and Ministerial Order Resume, Vol. 20, No. 1
February 25, 1993	Labour Relations Regulation (minor amendments)	Reg. 59/93 O.C. 209/93
July 15, 1994	Labour Relations Regulation S. 105 Transitional	Reg. 248/94
August 2, 1994	Labour Relations Board Rules[3]	Ministerial Order M208; O.C. and Ministerial Order Resume, 1994, Vol. 21, No. 26
June 1, 1999	Labour Relations Regulation[4]	Reg. 154/99 O.C. 646/99

[1] Reg. 7/93 established the Regulations passed pursuant to Section 159 of the *Labour Relations Code* and repealed Reg. 147/87 (the former Industrial Relations (Voting) Regulation).

[2] Ministerial Order M4 made the Labour Relations Board Rules and repealed the former Industrial Relations (Practice and Procedure) Regulation, which had been referred to as the Industrial Relations Council Rules.

[3] Ministerial order M208 approves the Labour Relations Board Rules, 1994, and repeals "any previous Labour Relations Board Rules".

[4] Regulation 154/99 amends Regulation 7/93 by adding Section 3.1 (Membership evidence — additional requirements for construction industry).